

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

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regardless of whether the complainant wishes to file with the Commission.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.220 COMPLAINTS BY THE EXECUTIVE DIRECTOR. The executive director may in his discretion file a complaint on behalf of a class or classes of persons when acts or practices allegedly contrary to AS 18.80 come to his or her attention.

(a) Executive director complaints will contain

(1) An identification of the class or classes which is sufficiently specific to enable the commission's staff to determine the nature of the class through investigation.

(2) A statement of the harm the executive director alleges each class has experienced or is experiencing.

(3) The date or dates when the alleged discriminatory practices occurred. If the practice is continuing, the complaint will state when the practice began, if known to the executive director.

(b) Executive director complaints will be notarized.

(c) When authorized by federal law, the executive director will, in his or her discretion, file the complaint with the federal enforcement agency having jurisdiction over the alleged unlawful acts or practices.

Authority: AS 18.80.050
AS 18.80.060
AS 18.80.100

6 AAC 30.230 FILING DATE. The complaint filing date is the date on which the complainant signs a complaint which meets the requirements of section 210 of this chapter or, in the case of an executive director complaint, the date of signing by the executive director.

(a) Complaints must be filed within 300 days of the occurrence of the alleged discriminatory act or practice. If the complaint alleges a discriminatory practice of a continuing nature, the complaint is timely if it is filed within 300 days of when the practice ceased.

(b) A written, oral or personal inquiry will be considered timely filed for the purpose of (a) of this section if the complainant relates substantially all the information required by section 210(d) of this chapter and if a complaint is filed within 60 days of the expiration of the 300 day filing period.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100
AS 18.80.110

ARTICLE 3. INVESTIGATION, DETERMINATION AND CONCILIATION.

Section

- 310. Resolution Conference Procedures
- 320. Investigative Methods by Commission Staff Prior to Conciliation Failure
- 330. Determinations
- 340. Conciliation Procedures
- 350. Amendments of Complaints Prior to Conciliation
- 360. Withdrawal of Complaints Prior to Conciliation
- 370. Chairperson Review of Closures

6 AAC 30.310 RESOLUTION CONFERENCE PROCEDURES. In the discretion of the commission's staff, a conference will be convened between the complainant and the respondent to define and narrow the issues of the complaint, receive information relevant to the investigation and, where possible, to negotiate a resolution.

(a) Complainants shall attend a resolution conference unless excused by the commission's staff for good cause shown. Respondent's attendance at a resolution conference is voluntary. No adverse inference concerning the merits of the complaint will be made against a respondent as a result of failure to attend a resolution conference.

(b) The complainant and respondent will be advised in writing of the conference date and of the procedures to be followed. The commission's staff will specify what information should be brought to the conference to assist with the investigation and resolution.

(c) Resolution conferences will be conducted informally and impartially by the commission's staff, which will inquire into facts relevant to the complaint and assist the complainant and respondent to negotiate a pre-determination resolution of the complaint at the request of the parties.

(d) Transcripts or tape recordings of the resolution conference may not be made, except upon the consent of the parties. The Commission staff will take investigative notes and will accept documents offered. Evidence gathered by the staff in such conferences may be offered as evidence in any hearing later conducted before the commissioners/examiner.

(e) Offers and counteroffers of settlement made during the conference shall not be disclosed by the commission's staff.

(f) The commission's staff member will adjourn the conference in the event of uncivil conduct between the parties or non-cooperation with the commission's staff.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS.18.80.110

6 AAC 30.320 INVESTIGATION METHODS BY COMMISSION STAFF PRIOR TO CONCILIATION. (a) The nature and scope of the investigation will be determined by the commission's staff. The commission's staff will impartially obtain and analyze facts relevant to the complaint to determine if the allegations are supported by substantial evidence. During the course of the investigation the staff may also investigate matters which are like, related to or growing out of the complaint. Statements and documents received at resolution conferences will be considered by the commission's staff in reaching its determination. In its impartial investigation of a complaint, the commission's staff will, in its discretion, receive evidence in support or dispute of the allegation in the complaint by resol-

ution conference, interviews, inspection of documents and examination of written submissions of parties and witnesses. Any party or witness may offer statements or evidence relevant to a case for consideration by the Commission's staff prior to issuance of the determination.

(b) To carry out its impartial investigation, the commission's staff will, in its discretion, issue requests for production, interrogatories, subpoenas and subpoenas duces tecum. The provisions governing the form, content, answers, production and objection to interrogatories and requests for production in sections 510, 560 and 570 of this chapter will apply. Answers to interrogatories and responses to requests for production shall be returned within 30 days of receipt unless an extension or modification is granted by the commission's staff for good cause shown.

(1) The commission's staff will notify the party to whom interrogatories or requests for production are directed that failure to answer or produce may result in an adverse determination by the staff on the merits of the complaint and a loss of the right to offer evidence sought by the interrogatories or requests for production at any subsequent hearing on the complaint.

(2) If a complainant fails to answer or produce, and if the information sought by the commission's staff is necessary to reach a determination on the merits of the complaint, the commission's staff will close the case.

(3) If a respondent fails to answer or produce, the commission's staff will analyze the evidence before it at the time of the failure and determine whether the complaint is supported by substantial evidence.

(A) If the complaint is supported by substantial evidence, the commission's staff will issue its determination in writing and invite conciliation. In the event of conciliation failure and the subsequent convening of a hearing, the hearing commissioners/examiner will not receive any evidence which should have been offered in response to the interrogatories or requests for production.

(B) If the complaint is not supported by substantial evidence, the commission's staff will refer instances of refusal to comply with subpoenas or subpoenas duces tecum, request for production, interrogatories or other process to the Department of Law for appropriate enforcement action in superior court.

(4) If the respondent answers the interrogatories or request for production at any time prior to commencement of the hearing, the case will revert to the commission's staff to complete the investigation. The adverse determination will be withdrawn.

(c) The parties shall not serve interrogatories, requests for production, subpoenas, subpoenas duces tecum and other process on each other, on the commissioner's staff, or on any other person prior to certification of conciliation failure by the executive director. The commission's staff will, in its discretion, issue process on any person at the request of a party when the issuance is reasonably necessary to the staff's impartial investigation, determination or conciliation of the case.

(d) The commission's staff will, in its discretion issue subpoenas and subpoenas duces tecum to take the deposition of any person as part of its impartial investigation. Depositions taken during investigation may be used as evidence at a hearing convened pursuant to article 4 of this chapter, if the parties and the person whose deposition is taken are informed that the

testimony may be used as evidence in any hearing arising out of the matter.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS 18.80.060(b)(4)
AS 18.80.075(a)
AS 18.80.110
AS 18.80.120
AS 18.80.130

6 AAC 30.330 DETERMINATIONS. (a) When the commission's staff finds that a complaint is not supported by substantial evidence, or when it determines that closure of a case for any other reason is necessary, it will issue its determination in writing to the parties in person or by certified mail, return receipt requested, accompanied by a closing order.

(b) When the commission's staff finds that the complaint is supported by substantial evidence, it will issue its determination in writing to the parties in person or by certified mail. If the commission's staff in the course of investigation identifies other issues of discrimination or persons not named in the complaint who have been similarly discriminated against, these issues or persons will be included in the determination either by name or with sufficient specificity that the respondent can identify each.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100
AS 18.80.110

6 AAC 30.340 CONCILIATION PROCEDURES. A determination that a complaint is supported by substantial evidence will be accompanied by proposed terms of conciliation. The commission's staff will propose remedies for each issue and individual or individuals identified in the determination.

(a) When terms of conciliation are negotiated and provide a remedy for persons not named in the complaint but identified in the determination, each person identified will be invited to accept or reject the remedy which has been negotiated.

(b) The commission's staff or either party shall direct to the class the best notice to all members who can be identified through reasonable effort.

(c) Conciliation by the commission will not act as a bar to any individual who has not filed a complaint if he or she informs the commission of a desire to seek relief outside of the agreement.

(d) Failure of conciliation will be determined by the executive director, who will so inform the members of the Commission or their designee in writing.

(e) The executive director will determine that conciliation has failed when

(1) the respondent fails to engage in a timely manner in conciliation discussions with the commission's staff;

(2) the commission's staff and the parties do not resolve the issues of the complaint; or

(f) The commission's staff will close a case when the complainant refuses to accept conciliation terms offered by the respondent which the commission's staff believes to be reasonable. Closure for this reason is not a bar to complainant's right to seek a remedy in other forums.

(g) The commission's staff will attempt conciliation on behalf of a complainant, or on behalf of a class of persons identified through investigation as described in section 330(b) of this chapter, whether or not the individual chooses to participate in or cooperate with conciliation efforts. Refusal of the complainant to cooperate with conciliation efforts is

not a bar to settlement or determination that conciliation on behalf of the class has failed.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100
AS 18.80.110

6 AAC 30.350 AMENDMENTS OF COMPLAINTS PRIOR TO CONCILIATION. Prior to certification by the executive director that conciliation has failed, complaints may be amended at any time, but complaints must be amended only when

(a) issues of discrimination or additional classes of persons adversely affected come to the attention of the complainant or the commission's staff, or arise during investigation, and

(b) which differ substantially from those set forth in the original complaint.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(1)
AS 18.80.100

6 AAC 30.360 WITHDRAWAL OF COMPLAINTS PRIOR TO CONCILIATION. Complaints filed by individuals may be withdrawn at any time prior to certification of conciliation failure by the executive director. The executive director's approval of the withdrawal is required after the commission's staff has determined that the complaint is supported by substantial evidence. Withdrawal of a complaint will not preclude the filing of a complaint by the executive director alleging a like or related violation of AS 18.80.

6 AAC 30.370 CHAIRPERSON REVIEW OF CLOSURES. (a) The complainant may apply for a reconsideration of the closure of any case by the commission's staff. Such an application must be to the chairperson, in writing, state specifically the grounds upon which it is based and be filed within 15 days from receipt of the closing order unless an extension is granted by the chairperson.

(b) If the application for reconsideration is made, the chairperson will review the entire file, and may in his or her discretion hear the parties. The chairperson will, in his or her discretion, grant or deny the application for reconsideration. If the chairperson grants the application for reconsideration, he or she will remit the matter, together with directions for further investigation, to the staff.

Authority: AS 18.80.050

ARTICLE 4. HEARING PROCEDURES.

Section

- 410. Convening of Hearings
 - 420. Class Action Complaints at Hearings
 - 430. Notice of Hearings
 - 440. Conduct of Hearings
 - 450. Amicus Curiae
 - 460. Evidence
 - 470. Examiner's Recommended Decision
 - 480. Orders by Hearing Commissioners
 - 490. Expenses
 - 492. Attorney Fees or Costs
 - 495. Sanctions
 - 497. Hearing Record
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6 ACC 30.410 CONVENING OF HEARING. (a) Upon the executive director's certification to commissioners that conciliation has failed, the chairperson, or his or her designee, shall appoint at least three commissioners and one alternate to hear and decide the case. Hearing commissioners may be replaced or additional hearing commissioners may be added by the chairperson at any time prior to issuance of a final order.

(b) If the hearing commissioners determine that delay may be avoided or special expertise in the subject matter is required, they will appoint a qualified, unbiased, and impartial hearing examiner with experience in the general practice of law, to take evidence at a hearing and to rule on its admissibility.

(1) Nothing in this section precludes the hearing commissioners from conducting a hearing jointly with an examiner, or, when no examiner is appointed, from exercising the powers delegated to the examiner in this chapter.

(2) The hearing examiner shall promptly notify the parties and the executive director of his or her appointment. Counsel to any party shall file a notice of appearance with the examiner.

(3) The commission will pay the costs and fees of the examiner.

(4) A party or the executive director may object to the appointment of the examiner on grounds that the examiner is not qualified, unbiased or impartial by filing a motion with the examiner within 10 days of service of the notice of appointment.

(5) An examiner shall not, during his or her term of appointment as examiner, represent a party to any complaints before the commission in which a notice of conciliation failure has been issued.

(c) The examiner, in his or her discretion or upon motion of any party, will conduct pre-hearing conferences to hear and decide preliminary and procedural motions, establish schedules for discovery, briefing, exchange of witness lists, and set dates for the hearing. The examiner may make appropriate orders on pre-hearing issues, including objections to his or her appointment. The hearing commissioners will not review pre-hearing orders of the examiner until the examiner submits his or her recommended decision.

(d) Within 10 days of receipt of notification of appointment of the examiner, the executive director shall appoint his or her designee, if any, who will present the case in support of the complaint.

(e) Originals of all pleadings, motions, stipulations, briefs, and other matters shall be filed with the examiner, with copies to the parties and to the executive director. Ser-

vice upon the complainant may be made by service upon the executive director.

(f) If the complainant's attorney also serves as the executive director's designee, the executive director will determine in advance what costs of presenting the case in support of the complaint, if any, will be paid by the Commission.

(g) The executive director or his or her designee may amend the complaint as a matter of right within 10 days of service of notification of appointment of the examiner. Further amendments must be upon motion, which shall be freely granted.

(h) On the 15th day after service of the examiner's appointment, or as soon thereafter as practicable, the examiner shall send a copy of the complaint, as it may have been amended, to the respondent, together with a notice requiring an answer.

(i) The respondent shall file an answer to the complaint, as amended, within 20 days of service. The answer must fairly meet the substance of the complaint and must contain a general or specific admission or denial of each and every allegation of the complaint or denial of any knowledge or information of them sufficient to form a belief. The answer must state any matter constituting a defense. Any allegation in the complaint which is not denied or admitted in the answer, unless the respondent shall state in the answer that it is without knowledge or information sufficient to form a belief, will be deemed admitted.

(j) If the complaint is amended upon motion, the respondent shall amend its answer to conform to the amendment.

Authority: AS 18.80.050
AS 18.80.060(a)(2)
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.420 CLASS ACTION COMPLAINTS AT HEARINGS. (a) When a complaint is to be maintained as a class action at a hearing, the procedures and standards in this section shall apply.

(1) Complaints by the executive director may be maintained as a class action only if the executive director identifies the class with specificity and can show that

(A) the class is so numerous that joinder of all members is impracticable;

(B) there are questions of law or fact common to the class;

(C) the claims of representative class members, if they are identified, are typical of the claims of the class; and

(D) the executive director will fairly and adequately protect the interests of the class.

(2) Complaints by individuals may be maintained as class actions only if the executive director, in his discretion, determines that it is feasible and in the public interest to seek certification of the complaint as a class action and the executive director can show that

(A) the class is so numerous that joinder of all members is impracticable;

(B) there are questions of law or fact common to the class;

(C) the claims of the complainant are typical of the claims of the class; and

(D) the executive director will fairly and adequately protect the interests of the class.

(b) An action may be maintained as a class action complaint if all the prerequisites of (a)(1) or (a)(2) of this section are satisfied, and in addition:

(1) the prosecution of separate actions by the individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or which would substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refuses to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole appropriate; or

(3) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action complaint is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to a determination that the proposed class qualifies as a class under this paragraph include:

(A) the interest of members of the class in individually pursuing the prosecution of separate administrative actions;

(B) the extent and nature of any litigation concerning the controversy already commenced by members of the class;

(C) the desirability or undesirability of concentrating the litigation of the claims in the administrative hearing; and

(D) the difficulties likely to be encountered in the management of a class action.

(c) The time and manner for identifying and notifying the class and its members is as follows:

(1) as soon as practicable after the complaint is issued by the examiner, the examiner shall determine by order whether it is to be maintained as a class action; an order under this paragraph may be conditional and may be altered or amended before the decision on the merits;

(2) in any class action complaint maintained under (b)(3) of this section, the examiner shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort;

(3) the findings of fact and conclusions of law in an action maintained as a class action under (b) (1) or (2) of this section, whether or not favorable to the class, shall include and describe those whom the hearing commissioners find to be members of the class; the findings of fact and conclusions of law in an action maintained as a class action under (b) (3) of this section, whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in (c) (2) of this section was directed, and who have not requested exclusion, and whom the hearing commissioners find to be members of the class;

(4) when appropriate

(A) an action may be brought and maintained as a class action with respect to particular issues, or

(B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this section shall then be construed and applied accordingly.

(d) In the conduct of actions to which this section applies, the examiner may make appropriate orders:

(1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in the manner the examiner may direct to some or all of the members of any step in the action, or of the

proposed extent of the order, or of the opportunity of members to signify whether they consider the representation fair and adequate to present claims, or otherwise to come into the action;

(3) imposing conditions on the complainant, representative class members, or the executive director;

(4) requiring that the complaint be amended to eliminate allegations as to representation of absent persons, and that the action proceed accordingly; and

(5) dealing with procedural matters similar to those in this subsection.

(e) The orders issued under (d) of this section may be altered or amended as may be desirable from time to time, and they are not final decisions of the hearing commissioners.

(f) A class action may not be dismissed or compromised without the approval of the hearing commissioners and notice of the proposed dismissal or compromise must be given to all members of the class in the manner the examiner directs.

(g) The order issued in accordance with AS 18.80.130, whether or not favorable to the class, shall include and describe those persons who are members of the class.

Authority: AS 18.80.050
AS 18.80.060(a)(4)
AS 18.80.060(b)(3)
AS 18.80.100
AS 18.80.120
AS 18.80.130

6 AAC 30.430 NOTICE OF HEARING. The examiner shall direct a notice of hearing to the parties and the executive director at least 15 days prior to commencement of the hearing, unless a shorter time is agreed to by the parties and the executive director. The notice must state the time and place of the hearing, with due regard to the convenience of the parties and witnesses.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.440 CONDUCT OF HEARINGS. (a) The executive director shall carry the burden of proving the allegations of the complaint.

(b) Parties may attend the hearing, in person or by counsel, and may present oral testimony or other evidence and may examine and cross-examine witnesses. Parties and the executive director may enter into any procedural or substantive stipulations not inconsistent with AS 18.80 or this chapter.

(c) The examiner will, in his or her discretion, call and examine witnesses and direct the production of documentary evidence upon reasonable notice, and direct its inclusion in the record.

(d) The record will be left open following completion of the hearing in the discretion of the examiner, to permit the inclusion of evidence otherwise unavailable during the hearing.

(e) The examiner shall control the conduct of the hearing, rule on the admissibility of evidence, the order and allocation of proof and all motions and objections. Any person who engages in improper conduct will, in the discretion of the examiner, be excluded from the hearing room or from further participation in the proceeding.

(f) The hearing may be continued from day-to-day or adjourned to a later date or to a different place by announcement at the hearing or by appropriate notice to the parties and the executive director.

(g) Oral testimony shall be by oath or affirmation. The examiner may administer the oath.

(h) A certified court reporter or other impartial person

agreed to by the parties and the executive director shall record the proceedings.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.450 AMICUS CURIAE. (a) A brief of an amicus curiae may be filed only if accompanied by written consent of all the parties or by leave of the examiner granted in his or her discretion on motion. A motion for leave to file a brief shall identify the interest of the amicus and shall state the reasons why a brief of the amicus is desirable.

(b) If the amicus curiae wishes to participate in oral argument, the amicus must file a motion, which will be granted in the discretion of the hearing examiner only for good cause shown.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.460 EVIDENCE. (a) The examiner shall admit and give probative effect to evidence that is admissible in the superior courts in the State of Alaska, or under the Federal Rules of Evidence. The examiner may admit and weigh other evidence on which reasonable persons are accustomed to rely in the conduct of their serious affairs. Examiners shall give effect to the rules of privilege recognized by law. Examiners shall exclude unreliable, irrelevant, and unduly repetitious evidence. Examiners shall admit without regard to the strict rules of evidence all evidence that would be practically helpful in deciding the case or evaluating other evidence.

(b) The commission staff has a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation pursuant to this chapter, unless the examiner finds that

(1) the identity of the person furnishing the information has already been otherwise disclosed or

(2) disclosure of his or her identity is essential to assure a fair determination of the material issue.

(c) At any time 10 or more days before a hearing a party or executive director may mail or deliver to an opposing party or the executive director a copy of an affidavit he or she intends to introduce together with a notice that he or she intends to introduce the affidavit into evidence in accordance with this section, and that the opposing party has seven days in which to request cross-examination. Unless the opposing party or the executive director, within seven days after that mailing or delivery, mails to the proponent a request to cross-examine an affiant, his or her right to cross-examine the affiant is waived and the affidavit, if introduced in evidence, will be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not given after request for it is made, the affidavit may be introduced in evidence, but may only be used to supplement or explain direct testimony and is not sufficient by itself to support a finding.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.470 EXAMINER'S RECOMMENDED DECISION. (a) The examiner shall promptly recommend findings of fact, conclusions of law and a proposed order to the hearing commissioners.

Parties and the executive director will be served with copies of the recommendations.

(b) On any question which would be determinative of the jurisdiction of the commission or of the culpability of any party, the examiner may only make recommendations to the hearing commissioners.

(c) When demeanor, inconsistency, or personal credibility is a basis for the recommendations, the examiner shall specifically note these observations in the recommendations.

(d) Within 15 days of receipt of the examiner's recommendations, any party or the executive director may file objections with the examiner. Copies will be served upon the parties and the executive director. The examiner, in his or her discretion, will reconsider the recommendation in light of objections and may order oral argument. If the examiner refuses to reconsider, the hearing record will be forwarded to the hearing commissioners for issuance of a final order. The hearing commissioners will consider any failure of the examiner to act within 20 days following the filing of objections to be a refusal to reconsider.

(e) The examiner may grant a reasonable extension for filing objections if the party or the executive director shows that a transcript is essential, or for other good cause shown.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

6 AAC 30.480 ORDERS BY HEARING COMMISSIONERS. (a) The hearing commissioners will review the hearing record and issue a final order determining the controversy, making such corrections, amendments or changes in the proposed findings of fact, conclusions of law and proposed order as they consider necessary; or the hearing commissioners may remand the matter to the examiner with directions to take additional evidence, rewrite the proposed findings, conclusions and proposed order, or take any other action they consider appropriate. The hearing commissioners will provide a period for objections to revised findings, conclusion or proposed orders of the examiner. Nothing in this section precludes the hearing commissioners from reviewing the record through analyses and reports prepared by their subordinates.

(b) The remedial authority of the commission authorized by AS 18.80.130(a) includes any legal or equitable relief which is reasonably calculated to ensure against future violations of a similar nature or which reasonably compensates the complainant or the class for losses incurred as a result of the unlawful conduct, including out of pocket expenses and humiliation and suffering.

(c) The order of the hearing commissioners must be by majority vote and will constitute final administrative adjudication for purposes of judicial review. Any hearing commissioner may file a concurring or dissenting opinion.

(d) Copies of the commission's order will be served upon the parties and the executive director. Parties will be advised of their right to seek judicial review.

(e) Copies of all commission final orders will be maintained at each office of the commission, and will be filed with state law libraries and with the Attorney General.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.130

6 AAC 30.490 EXPENSES. The complainant shall be responsible for all personal expenses and other expenses voluntarily incurred following certification of conciliation failure, unless the executive director determines in his or her discretion that the public interest associated with the case justi-

files payment by the Commission of all or part of the expenses, subject to available appropriations.

Authority: AS 18.80.050
AS 18.80.050(b)(1)
AS 18.80.120
AS 18.80.130(e)

6 AAC 30.492 ATTORNEYS FEES OR COSTS. (a) A party may move before the examiner for attorneys fees or costs only within ten days after the decision of the hearing Commissioners is served. The decision of the hearing Commissioners is an appealable order once it is issued, whether or not a motion for attorney fees or costs is filed.

(b) Awards of attorneys fees and costs will only be made against a complainant upon a showing that the action was pursued by the complainant in bad faith.

(c) Awards will not be made for attorney fees and costs incurred by a party prior to issuance of notice of conciliation failure.

Authority: AS 18.80.050
AS 18.80.130(a)
AS 18.80.130(e)
AS 18.80.135(a)

6 AAC 30.495 SANCTIONS. After certification of conciliation failure, the examiner may order a party or counsel who uses these rules for the purpose of delay or who fails to comply with these rules or other procedures previously ordered, to pay costs, including attorney fees and damages, to any other person who has been harmed by the delay or with a failure to comply.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)
AS 18.80.130(e)

6 AAC 30.497 HEARING RECORD. (a) The hearing record consists of the complaint and answer, as such may have been amended, the recording of the hearing, exhibits and depositions admitted, stipulations, briefs, orders of the examiner, the examiner's recommended decision and objections thereto and the final order of the hearing commissioners.

(b) A transcription of the recording of the hearing will not be prepared unless so ordered by the hearing commissioners.

(c) Any party or the executive director may obtain a transcript of the recording upon payment of the cost thereof to the transcriber. The examiner may order a transcript at the expense of the Commission.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120

ARTICLE 5. HEARING DISCOVERY.

Section

- 510. Discovery Methods
- 520. Persons Before Whom Depositions May be Taken
- 530. Stipulations Regarding Discovery Procedures
- 540. Depositions Upon Oral Examination
- 550. Use of the Deposition at Hearing
- 560. Interrogatories to Parties
- 570. Production of Documents
- 580. Requests for Admission
- 590. Failure to Make Discovery; Sanctions

6 AAC 30.510 DISCOVERY METHODS. (a) Parties or the executive director may obtain discovery by these rules, or may by stipulation agree to discovery by any other method. Upon motion, the examiner may, in his or her discretion, order discovery by any reasonable method, including those methods under the Alaska Rules of Civil Procedure, modified as necessary, including: depositions; written interrogatories; production of documents or things; permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Written interrogatories pursuant to section 560 of this chapter are limited to thirty questions, including paragraphs and subparagraphs. Upon application to the examiner the examiner may with good cause appearing, permit further written interrogatories.

(b) Unless otherwise limited by order of the examiner in accordance with these rules, the scope of discovery is as follows:

(1) Parties or executive director may obtain discovery regarding any matter, not privileged which is relevant to the subject matter involved in the pending action whether it relates to the claim or defense of the party or executive director seeking discovery or to the claim or defense of any other party or the executive director, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) Subject to the provisions of (b)(1) of this section, a party or the executive director may obtain discovery of documents and tangible things prepared in anticipation of litigation or for hearing by or for another party or by or for that other party's representative (including his or her attorney, consultant, surety, indemnitor, insurer, or agent) or by the executive director only upon a showing that the one seeking discovery has substantial need of the materials in the preparation of his or her case and that he or she is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the examiner shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney, the executive director, or other representative of a party concerning the case. A party may obtain without the required showing a statement concerning the case or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by

that person. If the request is refused, the person may move for an order by the examiner. For purposes of this subsection, a statement previously made is

(A) a written statement signed or otherwise adopted or approved by the person making it, or

(B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(3) Discovery of facts known and opinions held by experts, acquired or developed in anticipation of litigation or for hearing, may be obtained only as follows:

(A) A party or the executive director may through interrogatories require any other party or the executive director to identify each person that that person expects to call as an expert witness at hearing, to state the subject matter on which the expert is expected to testify and a summary of the grounds for each opinion.

(B) Upon motion, the examiner may order further discovery by other means.

(C) A party or the executive director may discover facts known or opinions held by an expert who has been retained or specially employed by another party or the executive director in anticipation of litigation or preparation for hearing and who is not expected to be called as a witness at hearing, only upon a showing of exceptional circumstances under which it is impracticable for the party or the executive director seeking discovery to obtain facts or opinions on the same subject by other means.

(D) Unless manifest injustice would result, the examiner shall require that the party or the executive director seeking discovery pay the expert a reasonable fee for time spent in responding to discovery pursuant to this subsection.

(4) The parties may obtain discovery against the commission case file only after certification of conciliation failure has been served. Intra-agency memoranda and working papers are privileged from discovery, unless the executive director intends to use them as evidence during the course of the hearing.

(c) Upon motion by a party, the executive director, or by the person from whom discovery is sought, and for good cause shown, the examiner may make any order which justice requires to protect a party, the executive director, or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the discovery not be had;

(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the person seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the examiner;

(6) that a deposition after being sealed be opened only by order of the examiner;

(7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(8) that the parties and/or the executive director simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the examiner.

(d) A party or the executive director who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his or her response to include information thereafter acquired, except as follows:

(1) A party and the executive director are under a duty seasonably to supplement his response with respect to any question directly addressed to

(A) the identity and location of persons having knowledge of discoverable matters, and

(B) the identity of such person expected to be called as an expert witness at hearing, the subject matter on which he or she is expected to testify, and the substance of his or her testimony.

(2) A party and the executive director are under a duty seasonably to amend a prior response if he or she obtains information upon the basis of which

(A) he or she knows that the response was incorrect when made, or

(E) he or she knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the examiner, agreement of the parties and the executive director, or at any time prior to hearing through new requests for supplementation of prior responses.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.520 PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN. (a) Depositions must be taken before an officer authorized by the laws of this state to administer oaths.

(b) No person may take a deposition before a person who is a relative or employee or attorney or counsel of the complainant or respondent, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.530 STIPULATIONS REGARDING DISCOVERY PROCEDURES. Unless the examiner orders otherwise, the parties and the executive director may enter into written stipulations which

(a) provide the depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and

(b) modify the procedures provided by this chapter for other methods of discovery, except that stipulations extending the time provided in this chapter for responses to discovery may be made only with the approval of the examiner.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.540 DEPOSITIONS UPON ORAL EXAMINATION. (a) After service of the notice of conciliation failure, a party or the executive director may take the testimony of any person by deposition upon oral examination.

(b) A party or the executive director desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action and the executive director. The notice must state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or her and the particular class or group to which he or she belongs. If a subpoena duces tecum is served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice.

(c) The examiner may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party or the executive director may nevertheless arrange to have a stenographic transcription made at his or her own expense.

(d) The notice to a party deponent may be accompanied by a request for the production of documents and tangible things at the taking of the deposition.

(e) A party or the executive director may in his or her notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he or she will testify. A subpoena must advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by any other procedure authorized in this chapter.

(f) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his or her direction and in his or her presence, record the testimony of the witness. The testimony must be taken stenographically or recorded by any other means ordered in accordance with (c) of this section. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party or the executive director, and any other objection to the proceedings, must be noted by the officer upon the deposition. Evidence objected to must be taken subject to the objections. In lieu of participating in the oral examination, a party or the executive director may serve written questions in a sealed envelope on the party or the executive director taking the deposition and he or she shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(g) At any time during the taking of the deposition, on motion of a party, the executive director or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the examiner may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking the deposition. If the order made terminates the examination, it may be resumed thereafter only upon the order of the examiner. Upon demand of the objecting party, the executive director or deponent, the taking of the deposition must be suspended for the time necessary to make a motion for an order.

(h) When the testimony is fully transcribed the deposition must be submitted to the witness for examination and must be read to or by him or her, unless such examination and reading are waived by the witness, the party and the executive director. Any changes in form or substance which the witness desires to make must be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition must then be signed by the witness, unless the parties and the executive director by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him or her the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress the examiner holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(i) If a transcript is ordered by a party or the executive director the officer shall certify on the deposition that the witness was duly sworn by him or her and that the deposition is a true record of the testimony given by the witness. He or she shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the examiner. Documents and things produced for inspection during the examination of the witness, must, upon the request of a party or the executive director, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party or the executive director, except that

(1) the person producing the materials may substitute copies to be marked for identification, if he or she affords to all parties and the executive director opportunity to verify the copies by comparison with the originals, and

(2) if the person producing the materials requests their return, the officer shall mark them, give each party and the executive director an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party or the executive director may move for an order that the original be annexed to and returned with the deposition to the examiner, pending final disposition of the case.

(j) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party, the executive director, or to the deponent.

(k) The party taking the deposition shall give prompt notice of its filing to all other parties.

(l) If the party or the executive director giving the notice of the taking of a deposition fails to attend and proceed therewith and another party or the executive director attends in person or by attorney pursuant to the notice, the examiner may order the party giving the notice to pay to such other person the reasonable expenses incurred by him or her including reasonable attorney's fees.

(m) If the party or the executive director giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him or her and the witness because of such failure does not attend, and if another party or the executive director attends in person or by attorney because he or she expects the deposition of that witness to be taken, the examiner may order the party or the executive director giving the notice to pay to such other persons the reasonable expenses incurred by him or her including reasonable attorney's fees.

(n) If the person whose deposition is to be taken resides out of the State of Alaska, and the deposition is scheduled within the state, the person taking the deposition is responsi-

ble for paying the cost of that person to travel to the place where the deposition is to be taken.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.550 USE OF DEPOSITION AT HEARINGS. (a) At the hearing or upon the hearing of a motion, any part or all of a deposition, including those taken in compliance with section 320(d) of this chapter, so far as admissible under section 460 of this chapter applied as though the witness were then present and testifying, may be used against a party or the executive director who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by a party or the executive director for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under section 540(e) of this chapter to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party or the executive director for any purpose.

(3) The deposition of a witness whether or not a party, may be used by a party or the executive director for any purpose if the examiner finds:

(A) that the witness is dead; or

(B) that the witness is at a greater distance than 100 miles from the place of hearing, or is out of the state, unless it appears that the absence of the witness was procured by the party or the executive director offering the deposition; or

(C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(D) that the party or the executive director offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing to allow the deposition to be used; or

(F) that the witness' testimony has been recorded on video tape.

(4) If only part of a deposition is offered in evidence by a party or the executive director, any other party or the executive director may require him or her to introduce any other part which ought in fairness to be considered with the part introduced.

(b) The parties and the executive director may, by stipulation, agree to the use of all or any part of a deposition in place of the deponent's testimony at hearing notwithstanding the provisions of (a) of this section.

Authority: AS 18.80.050
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.560 INTERROGATORIES TO PARTIES. (a) A party or the executive director may serve upon any other party or the executive director written interrogatories to be answered by

the person served or, if the person is a public or private corporation or a partnership or governmental agency, by any officer of agent, who shall furnish such information as is available to that person. Each interrogatory must be answered separately and fully in writing, under oath, unless it is objected to, in which event the reasons for objection must be stated in lieu of an answer. The answers must be signed by the person making them. The person upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories.

(b) Where the answer to an interrogatory may be derived or ascertained from the business records of the party or the executive director upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party or the executive director serving the interrogatory as for the person served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party or the executive director serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.570 PRODUCTION OF DOCUMENTS. A party or the executive director may serve on any other party or the executive director a request to produce and permit the person making the request, or someone acting on his or her behalf, to inspect and copy any designated documents (including writing, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters and which are in the possession, custody or control of the person upon whom the request is served.

(b) The request must set forth the items to be inspected either by individual items or by category, and describe each item and category with reasonable particularity. The request must specify a reasonable time, place, and manner of making the inspection and performing the related acts. The person upon whom the request is served shall serve a written response within 30 days after the service of the request. The examiner may allow a shorter or longer time. The response must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part must be specified. The person submitting the request may move for an order with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(c) Upon payment of mailing expenses and costs of copying, not including labor, the person seeking production of

documents may require that they be produced at the office of the person seeking production.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.580 REQUESTS FOR ADMISSION. (a) A party or the executive director may serve upon any other party or the executive director a written request for the admission, for purposes of the pending action only, of the truth of any matters set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents must be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(1) Each matter of which an admission is requested must be separately set forth. The matter is admitted unless, within 30 days after service of the request the person to whom the request is directed serves upon the party or the executive director requesting the admission a written answer or objection addressed to the matter, signed by the person or by his attorney. If objection is made, the reasons therefor must be stated. The answer must specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial must fairly meet the substance of the requested admission, and when good faith requires that a person qualify his or her answer or deny only a part of the matter of which an admission is requested, he or she shall specify so much of it as is true and qualify or deny the remainder. An answering person shall not give lack of information or knowledge as a reason for failure to admit or deny unless he or she states that he or she has made reasonable inquiry and that the information known or readily obtainable by him or her is insufficient to enable him or her to admit or deny. A person who considers that a matter of which an admission has been requested presents a genuine issue for hearing shall not, on that ground alone, object to the request.

(2) The party or the executive director who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the examiner determines that an objection is justified, he or she shall order that an answer be served. If the examiner determines that an answer does not comply with the requirements of this rule, he or she may order either that the matter is admitted or that an amended answer be served.

(b) Any matter admitted under this rule is conclusively established unless the examiner on motion permits withdrawal or amendment of the admission. The examiner may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party or the executive director who obtained the admission fails to satisfy the examiner that withdrawal or amendment will prejudice him or her in maintaining his or her action or defense on the merits. Any admission made by a party or the executive director under this rule is for the purpose of the pending hearing only.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(1)
AS 18.80.120
AS 18.80.130(a)

6 AAC 30.590 FAILURE TO MAKE DISCOVERY; SANCTIONS. (a)

A party or the executive director, upon reasonable notice to any other party and the executive director or the executive director and all persons affected thereby, may apply for an order compelling discovery as follows:

(1) If a person fails to comply with a discovery request, the discovering party or the executive director may move for an order compelling compliance. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he or she applies for an order.

(2) For purposes of this section an evasive or incomplete answer will be treated as a failure to answer.

(3) If the motion is granted, the examiner shall, after opportunity for hearing, require the party, the executive director, or deponent whose conduct necessitated the motion and/or the party, the executive director, or attorney advising such conduct or both of them to pay to the moving party or the commission, the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the examiner finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

(4) If the motion is denied, the examiner shall, after opportunity for hearing, require the moving party, the executive director, and/or the attorney advising the motion to pay to the party, the commission, or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the examiner finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

(b) If a party, the executive director, or an officer, director, or managing agent of a party fails to obey an order to provide or permit discovery, including an order made under (a) of this section the examiner may make such orders in regard to the failure as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts will be taken to be established for the purposes of the action in accordance with the claim of the party or the executive director obtaining the order;

(2) An order refusing to allow the disobedient party or the executive director to support or oppose designated claims or defenses, or prohibiting him or her from introducing designated matters in evidence;

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgement by default against the disobedient party and the executive director.

(4) In lieu of any of the orders in (b)(1), (2) and (3) of this section, or in addition thereto, the examiner shall require the party or the executive director failing to obey the order or the attorney advising him or both to pay the reasonable expenses including the attorney's fees, caused by the failure, unless the examiner finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) If a person fails to admit the genuineness of any documents or the truth of any matter when requested under section 580 of this chapter and if the party or the executive director requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he or she may apply to the examiner for an order requiring the other person to pay him or her the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The examiner shall make the order unless he or she finds that

(1) the request was held objectionable pursuant to this section,

(2) the admission sought was of no substantial importance, or

(3) the person failing to admit had reasonable ground to believe that he or she might prevail on the matter, or

(4) there was other good reason for the failure to admit.

(d) If a party or the executive director fails to comply with a discovery request, after proper service of the request, the examiner on motion may make such orders in regard to the failure as are just, and among others he or she may take any action authorized under section (b)(1), (2) and (3) of this section. In lieu of any order or in addition thereto, the examiner shall require the party failing to act or the attorney advising him or her, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the examiner finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(e) The failure to comply with a discovery request will not be excused on the ground that the discovery sought is objectionable unless the person failing to act has applied for a protective order.

(f) No order requiring a party or the executive director to pay costs in accordance with this section shall be final until approved as part of the examiner's recommended decision to the hearing commissioners.

Authority: AS 18.80.050
AS 18.80.060(a)(3)
AS 18.80.060(b)(3)
AS 18.80.120
AS 18.80.130(a)
AS 18.80.130(e)

ARTICLE 6. (Reserved)

ARTICLE 7. (Reserved)

ARTICLE 8. REPORTS AND RECORDKEEPING.

Section

- 810. Employer Records
- 820. Labor Union Records
- 830. Employment Agency Records
- 840. Retention of Records
- 850. Retention of Records When a Case is Filed
- 860. Failure to Keep Records
- 870. Commission Studies

6 AAC 30.810 EMPLOYER RECORDS. All employers subject to AS 18.80 shall make and keep records relevant to the determination of discrimination complaints. These may include

(a) application forms, including records of the race, age and sex of applicants, if known to the employer. Employers may request such information of applicants if the information is sought to further a good faith affirmative action plan designed to avoid or overcome conspicuous imbalance in a workforce.

(b) position descriptions.

(c) classification studies.

(d) payroll data.

(e) personnel files, including performance appraisals.

(f) any other records relevant to the employment status of employees and applicants which the employer makes in the ordinary course of business.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.120(b)

6 AAC 30.820 LABOR UNION RECORDS. All labor organizations subject to AS 18.80 shall make and keep records relevant to the determination of discrimination complaints. These may include, in addition to the records of employment with regard to the labor organization's own employees and applicants as specified in section 810 of this chapter, the following:

(a) logs and other records which document dispatching of members and others for employment;

(b) records relevant to selection of apprentices and processing them through training, including application forms. Labor organizations may request applicants to identify themselves by race, sex and age if the information is sought to further a good faith affirmation action plan designed to avoid or overcome conspicuous imbalance in an apprenticeship program;

(c) membership logs and registers, including records of dues payments, contributions to benefit programs and hours worked; and

(d) any other records relevant to the affiliation of persons with the labor organization or the use of its services which the labor organization makes in the ordinary course of business.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.830 EMPLOYMENT AGENCY RECORDS. All employment agencies subject to AS 18.80 shall make and keep records relevant to the determination of discrimination complaints. These include, in addition to the records of employment with regard to the employment agency's own employees and applicants as specified in section 810 of this chapter, the following:

(a) job orders placed by prospective employers and records of the selection and referral of candidates to employers;

(b) applications and files of persons seeking referral by the employment agency to prospective employers, including notes of reference checks and verification of employment history. Employment agencies may request persons seeking referral to identify themselves by race, sex and age if the information is sought to further a good faith affirmative action plan designed to avoid or overcome conspicuous imbalance in referral patterns; and

(c) any other records relevant to the acceptance of job orders or the referral of prospective candidates which the employment agency makes in the ordinary course of business.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.840 RETENTION OF RECORDS. The records specified in section 810 through 830 of this chapter must be maintained for inspection and copying by the commission for at least two years.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.850 RETENTION OF RECORDS WHEN A CASE IS FILED. Notwithstanding the requirement of section 840 of this chapter, records of a person who has filed a complaint with the commission, or of a class of persons named in a complaint filed by the executive director, together with the records of all persons or classes in like or related circumstances, must be maintained until final disposition of the complaint by the commission.

Authority: AS 18.80.050
AS 18.80.100
AS 18.80.110
AS 18.80.120
AS 18.80.130
AS 18.80.220(b)

6 AAC 30.860 FAILURE TO KEEP RECORDS. The failure to make and maintain the records specified in section 810 through 830 of this chapter may result in the filing of a complaint by the executive director alleging a violation of AS 18.80.220(b). If such violation is discovered in the course of investigation of a complaint, the commission's staff may include in its determination a finding of non-compliance with AS 18.80.220(b), regardless of findings entered with respect to the merits of the original complaint. Conciliation efforts will seek to secure compliance, and failure of conciliation will result in commencement of hearing procedures on the recordkeeping issue.

Authority: AS 18.80.050
AS 18.80.100
AS 18.80.110
AS 18.80.220(b)

6 AAC 30.870 COMMISSION STUDIES. The Commission will make studies of employment practices periodically in order to determine potential violations of AS 18.80. To make such

studies the Commission will request access to records required to be kept pursuant to this chapter. These requests are "inquiries" as specified in AS 18.80.060(b)(4) and are subject to the compulsory process in that subsection. The Commission may publish the results of such studies, but will do so only in a form which does not disclose the identity of any single reporting entity.

Authority: AS 18.80.050
AS 18.80.060(a)(6)
AS 18.80.060(b)(4)
AS 18.80.220(b)

ARTICLE 9. GENERAL PROVISIONS.

Section

- 910. Substantive Standards
- 920. Cases Filed in Superior Court
- 930. Subpoenas
- 940. Reopening
- 950. Publication of Case Results
- 960. Local Human Rights Commissions
- 970. Availability of Regulations
- 975. Construction of Regulations
- 980. Validity of Regulations
- 990. Definitions

6 AAC 30.910 SUBSTANTIVE STANDARDS. (a) Determinations by the commission's staff, recommendations of examiners and adjudications by hearing commissioners will be made with due regard for the precedential value of prior commission decisions, guidelines, regulations, policy statements and instructive federal statutes, regulations, administrative guidelines and federal and state case law. The commission will grant substantial weight to federal precedents and guidelines to the extent that they do not limit the obligation of the commission to liberally construe AS 18.80.

(b) The Commission will accord substantial weight in relevant cases to the guidelines of the Equal Employment Opportunity Commission, including, but not limited to

(1) guidelines on employment selection procedures, published in the federal register on August 25, 1978. (see 29 C.F.R. 1607.1 - 1607.18);

(2) guidelines on religious discrimination, published in the federal register on July 13, 1967. (See 29 C.F.R. 1605.1);

(3) guidelines on national origin discrimination, as amended in the federal register on March 18, 1974. (See 29 C.F.R. 1606.1);

(4) guidelines on discrimination because of sex, as amended in the federal register on March 30, 1972. (See 29 C.F.R. 1604.1 - 1604.10); and

(5) guidelines on affirmative action, published in the federal register on February 20, 1979. (See 20 C.F.R. 1608)

(c) The Commission will maintain copies of federal guidelines to which it accords substantial weight in each of its offices.

(d) In employment it is a defense to a complaint of unlawful discrimination to establish that the distinction is required by business necessity or the reasonable demands of the position. "Business necessity" or "reasonable demands of the position" means that the distinction is necessary to the safe and efficient operation of the business; the business purpose must be sufficiently compelling to override any discriminatory impact; and the challenged business practice must efficiently carry out the business purpose it is alleged to serve; and there is no available or acceptable policy or practice which would better accomplish the business purpose advanced or accomplish equally well with a lesser differential discriminatory impact.

Authority: AS 18.80.050
AS 18.80.060
AS 18.80.110
AS 18.80.130(a)
AS 18.80.130(c)

6 AAC 30.920 CASES FILED IN SUPERIOR COURT. When a complaint is filed in Superior Court alleging a violation of AS 18.80 pursuant to AS 22.10.020(c) the plaintiff shall promptly serve a copy of the complaint on the executive director. If the same parties and issues are currently before the commission's staff or in the hearing process, the commission, in its discretion, will seek intervention or deferral pursuant to AS 18.80.145, or it will close or withhold further processing of the case before the Commission.

Authority: AS 18.80.050
AS 18.80.145
AS 18.80.110
AS 18.80.120

6 AAC 30.930 SUBPOENAS. (a) Prior to the issuance of the notice of conciliation failure, the commission's staff may issue subpoenas or subpoenas duces tecum whenever necessary to compel the attendance of witnesses or to require the production for examination of any evidence relating to any matter under investigation or in question before the staff.

(b) After the issuance of certification of conciliation failure, the examiner may issue subpoenas or subpoenas duces tecum upon the written application of any party to the proceeding.

Authority: AS 18.80.050
AS 18.80.060(a)(2)
AS 18.80.060(b)(1)
AS 18.80.060(b)(4)
AS 18.80.110
AS 18.80.120

6 AAC 30.940 REOPENING. (a) The commission's staff will in its discretion, or upon motion for good cause shown, reopen any case which was closed prior to issuance of notice of conciliation failure and take such action as may be appropriate.

(b) The hearing commissioners will in their discretion, or upon motion for good cause shown, reopen any case which was closed following issuance of notice of conciliation failure and take such action as may be appropriate. Any petition for reopening must be made within 60 days after the final order is mailed to the moving party.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS 18.80.060(b)(3)
AS 18.80.110
AS 18.80.120
AS 18.80.130

6 AAC 30.950 PUBLICATION OF CASE RESULTS. The executive director will make public the resolution of complaints in which he or she determines that the public interest will be served by educating persons as to their rights, remedies and obligations under AS 18.80. Names of parties will not be disclosed by the Commission without their consent if the case is resolved prior to certification of conciliation failure by the executive director. Resolutions achieved following certification of conciliation failure will include identification of the parties.

Authority: AS 18.80.050
AS 18.80.110
AS 18.80.120
AS 18.80.130

6 AAC 30.960 LOCAL HUMAN RIGHTS COMMISSIONS. The Commission will, in its discretion, sign agreements and memoranda with local human rights commissions which share responsibility for processing cases so as to avoid duplication and overlap in processing. The Commission will accord substantial weight to the final findings and orders of local human rights commissions where the result is consistent with the requirements of AS 18.80 and this chapter.

Authority: AS 18.80.050
AS 18.80.290

6 AAC 30.970 AVAILABILITY OF REGULATIONS. Copies of the state laws and regulations of the commission are available to the public at all offices of the commission and at state law libraries.

Authority: AS 18.80.050

6 AAC 30.975 CONSTRUCTION OF REGULATIONS. The regulations in this chapter shall be liberally construed to accomplish the purposes of the law and the policies of the commission. Parties appearing before the Commission without counsel will not be subject to penalty or prejudice for failure to meet technical requirements of these regulations.

Authority: AS 18.80.050
AS 18.80.060(b)(1)
AS 18.80.110
AS 18.80.120
AS 18.80.130
AS 18.80.150
AS 18.80.160

6 AAC 30.980 VALIDITY OF REGULATIONS. If a provision of this chapter or its application to any person or circumstance is adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation loses its force and effect, that judgement or action does not affect the remainder of this chapter.

Authority: AS 18.80.050

6 AAC 30.990 DEFINITIONS. (a) Unless the context indicates otherwise, in this chapter or in AS 18.80.

(1) "practice or practices contrary to AS 18.80" includes only those unlawful discriminatory practices specified in AS 18.80.220 through AS 18.80.260;

(2) "place of public accommodation, resort or amusement" includes but is not limited to educational institutions and all places included in the meaning of that term as it appears in AS 18.80.300(7); nothing in this paragraph, however, bars any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making the selection as is calculated by the organization to promote the religious principles for which it is established or maintained;

(3) "commission" means the State Commission for Human Rights;

(4) "commissioner" means one of the members of the State Commission for Human Rights;

(5) "chairperson" means the duly elected chairman or chairwoman of the State Commission for Human Rights, or in the absence of the chairperson, the vice chairperson or other Commissioner designated by the remaining members of the commission;

(6) "hearing commissioners" means the commissioners designated by the chairperson to conduct a hearing;

(7) "party" or "parties" means the complainant or the respondent or both;

*Local rule
Hemo* (8) "discrimination because of marital status or changes in marital status" includes unjustified adverse action taken against a person because that person is single, married, widowed or divorced; or because of that person's marriage or termination of marriage to another person; or because that person is living with another to whom he or she is not married.

(9) "executive director" includes the designee of the executive director who presents the case in support of the complaint pursuant to section 410(d) of this chapter. Counsel for the complainant is not the "executive director" in this chapter unless he or she has been so designated by the executive director.

(b) In AS 18.80. "physical handicap" means any anatomical, physiological, or neurological disability, infirmity, malformation, or disfigurement which is caused by injury, birth defect, or illness, or the history of such a handicap, or the perception of such a handicap.

Authority: AS 18.80.050
AS 18.80.200
AS 18.80.210
AS 18.80.220
AS 18.80.230
AS 18.80.240
AS 18.80.250
AS 18.80.255
AS 18.80.260

ADDENDUM

After the preceeding proposed regulations and narrative were reproduced, an additional proposal for a regulation was suggested. This Addendum therefore adds the following subsection to proposed Section 440:

6 AAC 30.440 CONDUCT OF HEARINGS.

* * *

(i) A witness who is not a party and who appears for hearing or deposition pursuant to subpoena is entitled to receive fees, mileage and subsistence expenses in accordance with A.S. 44.62.440(c) and (d).

Explanation: Many administrative agencies in Alaska pay witness fees to non-parties who are required to appear before them under subpoena. The authority flows from the Administrative Procedure Act, which exempts the Commission. Fairness dictates, however, that such witnesses be compensated for their service to the Commission in the same manner as for an appearance before any other agency. The reference to A.S. 44.62 is to the section of the APA which sets the amounts, procedures and conditions under which witness fees are customarily paid.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

Dept. of Housing & Urban Development Arcade Plaza Bldg. 1321 2nd Avenue Seattle, WA 98101	F	Monica C. Asador Director	(206)442-0226	Discrimination cases handled by Seattle	Yes, or file thru State HRC	Rarely	Missing Discrimination
U.S. Treasury, Office of Revenue Sharing 2401 E Street N.W. Washington, D. C. 20226	F	Kent Peterson, Director	(202)634-5157	None in Alaska	Yes, or file thru State HRC	No	Discrimination in use of Federal Revenue Sharing Funds
Health, Education & Welfare Office of Civil Rights 1321 2nd Avenue Seattle, WA 98101	F	Virginia Apodaca, Director	(206)442-0473	None in Alaska	Yes	No	Sex discrimination in education; Discrimination use of HEW funds
Dept. of Justice, Community Relations Service 915 2nd Avenue, Rm. 1898 Seattle, WA 98174	F	Bob Lamb, Director	(206)442-4665	None in Alaska	Informal only	Yes	None: agency helps communities to resolve issues of racial tension
Law Enforcement Assistance Administration 633 Indiana Avenue Washington, D. C. 20531	F	Henry Dogin, Administrator	(202)633-2000	None in Alaska	Yes, or file thru State	No	Discrimination in use of LEAA funds by criminal justice agencies
Department of Labor Office of Federal Contract Compliance Programs 701 C Street-Box 55 Anchorage, AK 99513	F	Tom Canfield Area Office Director	271-3643	Anchorage only	Yes	No	Conducts compliance reviews of Federal contractors
Internal Federal EEO Programs	F	Each agency in Alaska has its own internal EEO coordinator	Too numerous to list	Statewide	Yes	No	Counsel and investigate on-the-job discrimination complaints concerning Federal employees
Alaska State Commission for Human Rights 204 E. 5th Avenue, Room 213 Anchorage, AK 99501	S	Niel Thomas, Executive Dir.	276-7474	Anchorage	No	Yes	Headquarters Office; handles cases at hearing stages only - individual case intake through field offices listed below; conducts studies as assigned by Legislature
204 E. 5th Ave., Room 217 Anchorage, AK 99501	S	Zella Bosman, Asst. Dir.	274-4692	Southcentral (Anchorage)	Yes	No	Discrimination in employment, housing, public accommodations, credit and finance, government services
Pouch II Juneau, AK 99811	S	Janet Bradley Asst. Dir.	465-3560	Southeastern (Juneau)	Yes	No	
675 7th Avenue, Sta. H Fairbanks, AK 99701	S	Cathi Carr-Lundfelt Asst. Dir.	452-1561	Northern (Fairbanks)	Yes	No	Systemic program: Studies statewide discrimination issues; initiates and investigates major statewide cases affecting classes of
204 E. 5th Ave. Rm. 213 Anchorage, AK 99501	S	Daveed Schwartz Asst. Dir.	276-7474	Statewide	Agency-initiated only	Yes	

Commission on the Status of Women 338 Denali Street Anchorage, AK 99501	S	Lynne Woods Exec. Dir.	276-3003	None	No	Yes	Study and make policy recommendations on status of women in Alaska and problems of discrimination, including minority women
State Ombudsman 840 K Street, Room 203 Anchorage, AK 99501	S	Frank Flavin, Ombudsman	276-4011	Anchorage	Yes	No	Investigates & recommends action involving state government operating, including discrimination
Pouch W0 Juneau, AK 99811	S	Duncan Fowler Reg'l Rep.	465-4970	Juneau	Yes	No	
P.O. Box 74358 Fairbanks, AK 99707	S	Sheila Gottehrer, Reg'l Rep.	452-4001	Fairbanks	Yes	No	
Fairbanks Human Relations Commission 315 Burnette Street Fairbanks, AK 99701	L	Jack Caldwell, Exec. Dir.	452-1881	None	Yes	Undecided	Discrimination in employment and public accommodations, Fairbanks City area only
Juneau Human Rights Commission (No Office)	L	Barbara Bowns President	465-2712	None	No	Yes	Voluntary citizen group recommendations to City-Borough government; operates dispute resolution committee
Anchorage Equal Rights Commission 620 E. 10th Avenue Anchorage, AK 99501	L	Vincent Casey, Exec. Director	264-4342	None	Yes	Occasionally	Discrimination in employment, housing, public accommodations, credit & finance, municipal government practices and insurance
Municipal Ombudsman 630 W. 5th Street Anchorage, AK 99501	L	Karla Forsythe, Ombudsperson	264-4461	None	Yes	No	Investigates & recommends improvements in municipal government services and operations, including discrimination
Municipal Office of Equal Opportunity (Minority Business Program) 437 E Street, Pouch 6-650 Anchorage, AK 99501	L	Charles LeViege Director	264-4897	None	Yes	No	Directs Contracts Compliance, Affirmative Action & MBE Programs. MBE assists minority contractors obtain municipal business under ordinance
BEQ Contract Compliance 437 E Street Pouch 6-650 Anchorage, AK 99501	L	Dave Burney, Manager	264-4894	None	Yes	No	Enforces fair employment practices ordinance governing municipal contractors
Municipal Affirmative Action Program 437 E Street, Pouch 6-650 Anchorage, AK 99501	L	Carol Smith, Administrator	264-4896	None	Yes	Yes	Counsels municipal employees with discrimination problems, assist municipal agencies

BEING RESPONSIVE TO THE CITIZENS WHO TESTIFIED BEFORE THE CHARTER COMMISSION, THE ANCHORAGE MUNICIPAL CHARTER'S PREAMBLE INCLUDES THE STATEMENT, "TO SUPPORT INDIVIDUAL RIGHTS, TO FORM A MORE RESPONSIVE GOVERNMENT." WHILE THE PREAMBLE INCLUDES OTHER COMMITMENTS, I HAVE QUOTED THE ONES THAT IN MY OPINION ARE SOMEWHAT INTRODUCTORY TO THE ERC.

ARTICLE II, THE BILL OF RIGHTS ITEM (7) AND I QUOTE, "THE RIGHT TO OPPORTUNITIES IN HOUSING, PUBLIC ACCOMMODATIONS, EMPLOYMENT, AND EDUCATION WITHOUT REGARD TO RACE, RELIGION, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS, OR PHYSICAL HANDICAP; AND THE RIGHT TO AN EQUAL RIGHTS COMMISSION AT THE MUNICIPAL LEVEL IN AID THEREOF.

IN RESPONSE TO ARTICLE II, ARTICLE XVII, SECTIONS 17.01, EQUAL RIGHTS WAS WRITTEN. IT STATES "THE ASSEMBLY SHALL ENACT ORDINANCES AGAINST INVIDIOUS DISCRIMINATION IN HOUSING, PUBLIC ACCOMMODATIONS, EMPLOYMENT, EDUCATION AND FINANCING PRACTICES ON THE BASIS OF RACE, RELIGION, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS OR PHYSICAL HANDICAP."

SECTION 17.02 EQUAL RIGHTS COMMISSION

THE ASSEMBLY BY ORDINANCE SHALL ESTABLISH AN EQUAL RIGHTS COMMISSION AND ESTABLISH ITS DUTIES. THE COMMISSION SHALL APPOINT ITS PRINCIPAL EXECUTIVE OFFICER WITH APPROVAL OF THE MAYOR. THE PRINCIPAL EXECUTIVE OFFICER SHALL SERVE AT THE PLEASURE OF THE COMMISSION.

THUS, THE ASSEMBLY PASSED TITLE V OF THE ANCHORAGE MUNICIPAL CODE ESTABLISHING THE ANCHORAGE EQUAL RIGHTS COMMISSION AND ITS AREAS OF JURISDICTION.

THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE MAYOR FOR 3 YEAR TERMS WITH CROSS REPRESENTATION OF AGE, RACE, SEX AND INCOME LEVELS. THE COMMISSION MEETS THE 3RD THURSDAY OF EACH MONTH AT 325 EAST THIRD AVENUE (THE NEIGHBORHOOD COMMUNITY CENTER) AT 7:30 P.M., AND ON OTHER OCCASIONS AS IT DEEMS NECESSARY.

THE COMMISSION THIS YEAR SURVEYED A MAILING LIST OF SIXTY MINORITY, WOMEN'S AND CIVIC ORGANIZATIONS REQUESTING THAT THEY INDICATE THEIR PRIORITIES CONCERNING THE COMMISSION'S RESPONSIBILITIES AND IN WHICH AREAS WE SHOULD BE CONCENTRATING. EMPLOYMENT WAS INDICATED AS THE MAIN CONCERN THE COMMISSION SHOULD BE AUDITING. FINANCING PRACTICES AND EDUCATION WERE THE NEXT PRIORITIES, WITH HOUSING, PUBLIC ACCOMMODATIONS AND MUNICIPAL SERVICES ALL TYING AS THE FOURTH MOST IMPORTANT CONCERN.

IN RESPONSE TO THIS SURVEY THE COMMISSION IS IN THE PROCESS OF DEVELOPING GUIDELINES AND TIMETABLES IN PREPARATION TO APPOINT SUB-COMMITTEES TO MAKE A THOROUGH STUDY OF THE TOP THREE CONCERNS IN 1980.

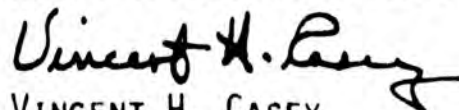
SOME OF THE PROBLEMS CONCERNING DISCRIMINATION ARE:

1. AGENCIES HAVE NOT DONE A GOOD JOB IN EDUCATING THE PUBLIC AS TO WHAT CONSTITUTES ILLEGAL DISCRIMINATION; HOW TO DETECT AND EXPOSE IT.
2. WE HAVE NOT DONE A GOOD JOB OF OFFERING OUR SERVICES TO EMPLOYERS, LANDLORDS, PROPRIETORS, ETC.
3. WE HAVE NOT DONE A GOOD JOB OF COORDINATING OUR EFFORTS-- LIKE EACH AGENCY MONITORING ONE SPECIFIC AREA, SUCH AS EMPLOYMENT, HOUSING, ETC. SUCH AN APPROACH WOULD RESULT IN A THOROUGH JOB OF MONITORING, INSTEAD OF A "CATCH AS CATCH CAN".
4. WE NEED TO DO A BETTER JOB IN GAINING THE CONFIDENCE OF THE ALASKA NATIVE TO USE OUR AGENCIES TO ELIMINATE THE DISCRIMINATORY PRACTICES THEY MAY SUFFER.
5. EQUALLY IMPORTANT IS THE NEED TO PREPARE YOUTH AND ADULTS ALIKE ON HOW TO HANDLE A SITUATION AS IT ARISES WHEN DEALING WITH DISCRIMINATION.

IT WOULD APPEAR THAT OUR EDUCATIONAL SYSTEMS WOULD BE THE BEST VEHICLES TO ATTEMPT TO ELIMINATE PREJUDICE.

THE EQUAL RIGHTS COMMISSION THROUGH ITS PROJECTED SUBCOMMITTEES, PLANS TO DEVELOP SOLUTIONS TO SOME OF THE AFOREMENTIONED CONDITIONS. CLOSER COORDINATION AMONG THE ENFORCEMENT AND MONITORING AGENCIES WILL ASSIST IN IDENTIFYING AND RESOLVING OTHER RELATED PROBLEMS.

RESPECTFULLY SUBMITTED,



VINCENT H. CASEY
EXECUTIVE DIRECTOR
ANCHORAGE EQUAL RIGHTS COMMISSION

BY THE
EXECUTIVE DIRECTOR, MARVA J. WILLIAMS
BEFORE
SENATE MINORITY RELATIONS COMMITTEE

THE ALASKA PLAN POLICY BOARD APPRECIATES THE OPPORTUNITY TO EXPLAIN THE FUNCTIONS OF THE ALASKA PLAN TO THE SENATE MINORITY RELATIONS COMMITTEE. DURING OUR PRESENTATION I WILL ATTEMPT TO EXPLAIN OUR ROLE OF FUNCTION IN THE CONSTRUCTION INDUSTRY.

ALASKA PLAN'S AUTHORITY

THE ALASKA HOMETOWN PLAN IS MORE COMMONLY KNOWN IN THE STATE OF ALASKA, AS THE ALASKA PLAN, WHICH IS AN AFFIRMATIVE ACTION PLAN APPROVED BY THE U.S. DEPARTMENT OF LABOR MARCH 31, 1979.

THE HOMETOWN PLAN (ALASKA PLAN) CAME INTO EXISTENCE WHEN THE FEDERAL GOVERNMENT GAVE LOCAL COMMUNITIES THE OPPORTUNITY TO DEVELOP AN AFFIRMATIVE ACTION PLAN WHICH COULD MEET THE COMMITMENT OF THE FEDERAL GOVERNMENT'S STANDARDS OF INCREASING MINORITY AND FEMALE GROUP EMPLOYMENT IN ALL PHASE OF THE CONSTRUCTION INDUSTRY FOR THE STATE OF ALASKA.

THE PLAN WAS DESIGNED TO ASSURE THAT ALL INTERESTED PARTIES; LABOR, MANAGEMENT AND THE MINORITY COMMUNITY SHARE IN THE COMMITMENT OF MAKING THE OBJECTIVE A REALITY.

A BOARD OF DIRECTORS CONSISTING OF NINE (9) UNSALARIED MEMBERS REPRESENT THE MINORITY COMMUNITY, THE CONTRACTORS ASSOCIATIONS, THE UNIONS AND WOMEN'S GROUP. THE MEMBERS SET POLICIES TO REACH THE GOALS OF THIS AGREEMENT.

THE ALASKA PLAN IS NO NEW CONCEPT. HOMETOWN PLANS ARE NATIONWIDE AND TODAY THEIR EXIST TWENTY SIX (26) ACTIVE PLAN EXTENDING GEOGRAPHICALLY FROM SAN DIEGO, CALIFORNIA TO SYRACUSE, NEW YORK. AS OF WHICH SHARE A

COMMON GOAL OF ENSURING THE UTILIZATION OF MINORITIES AND WOMEN FOR THE CONSTRUCTION INDUSTRY.

DURING JUNE OF THIS YEAR, NATIONAL ASSOCIATION OF THE VOLUNTARY PLAN ADMINISTRATORS WAS ESTABLISHED. SPEAKING AMONG THE PLAN ADMINISTRATORS, AND FOR THE STATE OF ALASKA, THE VOLUNTARY CONCEPT HAS PROVEN TO BE THE MOST EFFECTIVE VEHICLE FOR BEST INTEGRATING THE CONSTRUCTION TRADE UNIONS.

PRIOR TO THE INCEPTION OF THE ALASKA PLAN, MINORITIES AND WOMEN WERE NOT ENCOURAGED TO ENTER CONSTRUCTION TRADE UNIONS, EXCEPT FOR LABORERS WHERE A MINIMAL SKILL LEVEL WAS NEEDED.

THANKS, TO THE MINORITY COMMUNITY, LABOR AND MANAGEMENT RECOGNIZING IN THE EARLY 70'S THAT THE BEST METHOD TO ACHIEVE THE GOALS OF THE CIVIL RIGHTS WOULD BE TO CREATE A PLAN AND PLACE IT IN THE HANDS OF PEOPLE THAT WOULD BE CLOSER TO THE HEART OF THE PROBLEM.

THEN IS WHEN THE ALASKA PLAN TOOK THE RESPONSIBILITY TO WORK AS THE LIAISON BETWEEN LABOR, MANAGEMENT AND THE MINORITY COMMUNITY. AS A LIAISON BETWEEN THE TWO (2) PARTIES, WE ATTEMPT TO EDUCATE EMPLOYERS AND UNIONS ABOUT CIVIL RIGHTS LAWS TO CREATE A HEALTHY, PRODUCTIVE WORK ENVIROMENT. OUR INCENTIVE IS TO KEEP PEOPLE ON JOBS, ASSIST UNIONS AND CONTRACTORS TO COMPLY WITH THE MINORITY HIRE GOALS, AND MOST OF TO PREVENT THE CLIENT FROM SUFFERING ANY LOSS OF WAGES.

THE ALASKA PLAN MAINTAINS OFFICES IN ANCHORAGE, AND FAIRBANKS. THEY ARE EIGHT (8) STAFF MEMBERS CONSISTING OF

- 1- LABOR RELATIONS OFFICER
- 3- PROJECT MONITORS (2 ANCHORAGE AND 1 FAIRBANKS)
- 3- CLERICAL STAFF (2 ANCHORAGE AND 1 FAIRBANKS)
- 1- EXECUTIVE DIRECTOR IN ANCHORAGE
- 1- SEASONAL PROJECT MONITOR IN FAIRBANKS (DUE TO LACK OF FUNDING)

THE OPERATING BUDGET FOR F/Y 80 IS \$250,000.00.

IN ORDER TO EFFECTIVELY MONITOR ALL CONSTRUCTION PROJECTS AWARDED STATEWIDE, MORE MONITORS ARE NEEDED TO PHYSICALLY ASCERTAIN MINORITY AND FEMALE HIRE IN PROGRESS.

IT IS IMPOSSIBLE TO ASSUME THAT \$250,000.00 CAN EFFECTIVELY PROVIDE FOR THE ADMINISTRATION OF POSITIONS AND TRAVEL TO VARIOUS CONSTRUCTION SITES YEAR ROUND TO ENSURE THE UTILIZATION OF MINORITY AND FEMALE HIRE IN PROGRESS.

IN ORDER TO GIVE THE AUDIENCE A TRUE PICTURE OF THE ALASKA PLAN'S ROLE:

1. WE RECRUIT MINORITIES, WOMEN, AND ALASKA RESIDENTS AND ACQUAINT THEM WITH EMPLOYMENT, TRAINING AND APPRENTICESHIP OPPORTUNITIES IN ORDER FOR THESE INDIVIDUALS TO ENTER THE MAINSTREAM OF THE CONSTRUCTION INDUSTRY AS QUALIFIED, SKILL TRAINED CRAFTSPEOPLE. YOU NOTICED I MENTIONED SERVING ALASKAN RESIDENTS, THIS AFFIRMATIVE ACTION PLAN WILL NOT BE USED TO DISCRIMINATE AGAINST ANY QUALIFIED APPLICANT OR EMPLOYEE.

WE FOUND IT NECESSARY PARTICULARLY DURING THE BOOM/BUST PERIOD TO SECURE VACANCIES FOR ALASKANS (MINORITIES, RESIDENTS ETC.) TO HELP THEM AMONG THE RANKS OF THE EMPLOYED ALASKANS.

OUR PRIMARY ROLE IS MONITORING:

2. WE MONITOR (ASSIST AND ADVISE) EMPLOYER AND UNIONS TO ENSURE THAT E.E.O. PREVAIL THROUGHOUT THE CONSTRUCTION INDUSTRY IN THE STATE OF ALASKA.

OUR PROJECT MONITORS PHYSICALLY CHECK CONSTRUCTION PROJECTS ON A DAILY BASIS TO MONITOR AND DOCUMENT THE EXTENT OF MINORITY AND FEMALE HIRE. THEY EVALUATE AND MONITOR MANPOWER UTILIZATION REPORTS FROM CONTRACTORS, HOWEVER, WE HAVE FOUND THAT PHYSICALLY MONITORING IS THE BEST SYSTEM TO ASCERTAIN IF MINORITY AND FEMALE HIRE IS IN PROGRESS.

ALASKA PLAN STAFF IS MONITORING AT A RATE OF 120 - 150 CONTRACTORS
PER MONTH.

	JUNE	JULY	AUGUST	SEPTEMBER
COMPANIES SURVEYED	139	151	144	129
TOTAL WORKFORCE	2,375	3,658	3,764	3,661
MINORITY WORKFORCE	300	597	632	606
FEMALE WORKFORCE	63	106	93	125
OVERALL PARTICIPATION	12.6%	19.2%	9.3%	20.0%

LABOR RELATIONS OFFICER

OUR LABOR RELATIONS OFFICER MEETS ON A DAILY BASIS WITH MANAGEMENT
AND UNION OFFICIALS FOR PURPOSE OF ASCERTAINING MINORITY HIRE PROGRESS.
NEGOTIATES AGREEMENTS AND ASSIST IN THE RESOLUTION OF PROBLEMS.
GATHERS AND COMPILES DISPATCH INFORMATION TO EVALUATE FOR MINORITY
HIRE COMPLIANCE. QUICK RESOLUTION CONCEPT - IS OUR METHOD OF SOLVING
POTENTIAL DISCRIMINATE PROBLEMS WITH LITTLE IMPACT ON THE RECIPIENT.
PROBLEMS ARE NORMALLY SOLVED IN ONE WEEK.

ADVANTAGE OF THIS SYSTEM IS

1. LITTLE DISTURBANCE TO THE WORKSITE.
2. LESS PEOPLE INVOLVED IN THE RESOLUTION.
3. KEEP THE PERSON EMPLOYED.

THE PERSON BENEFITS FROM A CASE BEING RESOLVED IN A TIMELY MANNER
BECAUSE IT IS ONLY HUMAN NATURE FOR SOME RESENTMENT TO BE FELT BY
A PERSON WHO IS PUT ON THE DEFENSIVE SIDE BY THE BURDEN OF
EXPLAINING THEIR SIDE OF CHARGE. THE LONGER THE DELAY, THE MORE
RESENTMENT AND CONFUSION AND INTERNAL GOSSIP ABOUT THE CASE WHICH
ULTIMATELY REDUCES OUTPUT AND THE CHANCES OF A COMPLETE RESOLUTION.

ON GOING ASSISTANCE IS OFFERED TO THE EMPLOYERS TO ENSURE THAT HE OR SHE IS RECEIVING THE APPROPRIATE OUTPUT FROM THE EMPLOYEE AND THE GOAL BEING TO KEEP OPEN COMMUNICATION WITH ALL PARTIES INVOLVED. WE INDIVIDUALLY DISCUSS CASES AND HUMAN RELATION TECHNIQUES AND DISCRIMINATORY ISSUES WITH EMPLOYERS TO PREVENT FUTURE CASES.

RESULTS

SINCE THE INCEPTION OF THE ALASKA PLAN OF 1972 OVER 4,600 FEMALES HAVE ACQUIRED MEMBERSHIP INTO UNIONS STATE WIDE, AND 8,800 ETHNIC MINORITIES ARE MEMBERS OF CONSTRUCTION TRADES UNION.

HOW DID WE DO IT?

FIRST OF ALL:

WE REVIEWED AN APPLICANT PREVIOUS WORK EXPERIENCE BEFORE AN

1. EXPERIENCE EQUIVALENCY PANEL CONSISTING OF A CONTRACTOR, UNION REPRESENTATIVE AND MEMBER OF MINORITY COMMUNITY. MANY ALASKAN NATIVES AND OTHER MINORITIES HAD ESTABLISHED WORK EXPERIENCE IN THEIR COMMUNITIES, THE PANEL WOULD EVALUATE THOSE EXPERIENCES AND CLASSIFY THE INDIVIDUAL AS:

- A. JOURNEYMEN
- B. APPRENTICE
- C. TRAINEE

PANEL WAS ONE OF THE DIRECT METHOD OF PLACEMENT INTO UNION AND OCCASSIONLY DIRECT PLACEMENT ON A JOB.

2. PRE-APPRENTICESHIP TRAINING PROGRAM

PREPARATORY PROGRAM FOR ALASKANS WHO DESIRE TO ENTER APPRENTICESHIP PROGRAMS.

- A. ORIENTATION OF THE CONSTRUCTION TRADES I.E. ELECTRICAL TELEPHONE COMMUNICATION, WIRMAN (OR) LINEMEN
- B. DISCUSSION OF WORK ETHICS
 - 1. ATTENDANCE
 - 2. ABILITY
 - 3. CONFIDENCE
 - 4. APPLICATION PROCESS
- C. FIELD TRIPS TO CONSTRUCTION WORK-SITES
 - 1. VIEWING CRAFTS PEOPLE IN THEIR WORK FIELD
- D. INTERVIEWING PROCEDURES
 - 1. GROOMING
 - 2. APPEARANCE
) TECHNIQUES
- E. GUEST SPEAKERS
 - 1. UNION REPRESENTATIVES - UNION PROCEDURES & POLICIES
 - 2. CONTRACTORS - EMPLOYERS EXPECTATIONS
 - 3. COMMUNITY LEADERS - UPWARD MOBILITY

WHAT OTHER AGENCIES DO:

THE HUMAN RIGHTS COMMISSION ENFORCES LAWS OF DISCRIMINATION IN EMPLOYMENT, HOUSING, CREDIT AND FINANCE PUBLIC ACCOMODATION ETC.

THE COMMISSION COMPELS OR IMPOSES EMPLOYERS TO PROVE THEIR INNOCENCE OF ALLEGED DISCRIMINATION CASE. ONLY ASSISTANCE THAT CAN BE PROVIDED TO MINORITIES OR WOMEN ARE THOSE WHO HAVE ALLEGED THAT THEY HAD BEEN DISCRIMINATED AGAINST AND OR ESTABLISHED A "PRIMA FACIE" CASE OF DISCRIMINATION. IN SHORT, YOU DON'T GET ASSISTANCE UNLESS YOU HVE BEEN DISCRIMINATED AGAINST.

THE RECIPIENT RECEIVES NO ENCOURAGEMENT FOR CLAIMANT TO STAY ON THE JOB BECAUSE OF THE NATURE OF CIVIL RIGHTS SETTLEMENTS. THE CLAIMANT IS AWARDED BACKPAY FROM THE DATE OF THE ALLEGED DISCRIMINATION TO THE DATE

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OF SETTLEMENT. THE INCENTIVE IS TO WAIT ON THE SETTLEMENT OR GET EMPLOYMENT AT A LOWER SALARY, RATHER THAN FIND A JOB AT A COMPARABLE SALARY TO THE ONE HELD DURING THE ALLEGED DISCRIMINATION.

THIS SYSTEM ENCOURAGES MAJOR LOSSES OF INCOME TO THE RECIPIENT AND EXPLORATION OF ALTERNATIVE MONEY. SUCH AS:

1. UNEMPLOYMENT.
2. ANY JOB THAT PAYS LESS MONEY.

BACKPAY IS AWARDED AS THE DIFFERENCE BETWEEN THE AMOUNT OF MONEY EARNED AND THE AMOUNT THAT WOULD HAVE BEEN EARNED WAS IT NOT FOR THE DISCRIMINATORY ACT.

SLOW RESOLUTION

HUMAN RIGHTS COMMISSION HAS TWO METHODS OF INVESTIGATION OF CASES:

1. RAPID CHARGE PROCESSING - WHERE PARTIES ARE BROUGHT TOGETHER AFTER ONE MONTH FROM INITIAL CHARGE.
2. THE TRADITIONAL METHOD - CASES ARE PRESENTLY RUNNING ONE YEAR (AVERAGE) BEHIND THE INITIAL DATE OF FILING.

ADVANTAGE: HUMAN RIGHTS COMMISSION HAS NO STATUTORY DEADLINE TO INVESTIGATE A CASE. THEY COULD INVESTIGATE A CASE REGARDLESS OF AGE!

AFTER HUMAN RIGHTS COMMISSION CASE IS CLOSED, THERE IS NO ASSISTANCE PROVIDED TO GET THE PERSON ANOTHER JOB, IF NECESSARY, OR FOLLOW UP IN THE CURRENT WORK SITUATION. IN ORDER TO GET ASSISTANCE, THE CLAIMANT MUST AGAIN FILE A CHARGE (THIS TIME RETALIATION) WITH THE COMMISSION. THE HUMAN RIGHTS COMMISSION DOES NOT INVESTIGATE EMPLOYEE PRODUCTIVITY AFTER A CASE IS RESOLVED. THERE IS NO ASSISTANCE PROVIDED TO THE EMPLOYER IN REGARDS TO HUMAN RELATIONS SKILLS OR METHODS TO AVOID DISCRIMINATION COMPLAINTS AFTER THEY ARE ISSUED "CAUSE FINDINGS".

MUNICIPAL AGENCIES

THE EQUAL RIGHTS COMMISSION ALSO ACCEPTS DISCRIMINATION COMPLAINTS. IN THE EVENT OF A VIOLATION THE STAFF OF THE EQUAL RIGHTS COMMISSION HAS NOTIFIED THE ALASKA PLAN OFFICE TO ESTABLISH GOOD COMMUNICATION TO ENSURE THAT ALL FACTS HAVE BEEN PROPERLY PRESENTED. THIS

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COMMISSION WORKS IN A COOPERATIVE EFFORT TO GATHER FACTS TO ADHERE TO THE REALITIES OF A GIVEN SITUATION.

THE EXECUTIVE DIRECTOR OF THE EQUAL RIGHTS COMMISSION HAS MADE A PERSONAL EFFORT TO COORDINATE A MEETING DATE WHERE-AS THE ALASKA PLAN AND THE COMMISSION CAN EXPLAIN THEIR ROLES OF FUNCTION TO BEST ASSIST EACH OTHER.

FUTURE

ROLE WILL INVOLVE EXPANDING OUR MONITORING EFFORTS IN RURAL AREAS TO ENSURE THAT LOCAL HIR COMMITMENTS WILL BE MET ON THE CONSTRUCTION OF RURAL SCHOOLS FROM ADAK TO NOORVIK, ALASKA.

WITH THE 1980 CONSTRUCTION PROJECTIONS INCLUDING CONTINUATION OF A:
NORTHWAY MALL \$20 MILLION
EXPANSION OF THE DIMOND CENTER (2000,000 FEET)
ANCHORAGE INTERNATIONAL AIRPORT CONSTRUCTION \$23 MILLION
SEVENTEEN (17) STOREY ELECTRICAL BUILDING.

NEW PROJECTS: SUCH AS:

\$106 MILLION OF HIGHWAY CONSTRUCTION
REGIONAL JAIL IN BETHEL \$3.1 MILLION
REMODELING SEWARD SKILL CENTER 2.2 MILLION
NATIONAL GUARD ARMORY IN KOTZEBUE 1:5 MILLION
GASTINEAU CHANNEL BRIDGE IN JUNEAU \$20 MILLION
HARBOR CONSTRUCTION IN WHITTIER, KODIAK AND KETCHIKAN

WE FEEL WE HAVE AN OBLIGATION TO ENSURE THAT MINORITIES MAJOR PROJECTS SUCH AS THE UP-COMING:

1. ALASKA NATURAL GAS TRANSPORTATION PROJECT
2. ALASKA PETROCHEMICAL PLANT
3. SUSITNA DAM
4. WATER INJECTOR PLAN

WE FEEL WE HAVE AN OBLIGATION TO ENSURE THAT MINORITIES, WOMEN AND ALL ALASKANS HAVE THE OPPORTUNITY TO BE EMPLOYED IN THEIR WORK-FIELD. LABOR AND MANAGEMENT HAS SPENT THOUSANDS AND THOUSANDS OF DOLLARS TO TRAIN QUALIFIED PEOPLE FOR ALASKA'S INDUSTRY AND WE FEEL IT'S TIME THEY RECEIVE SOME OF THE BENEFITS OF BEING AMONG THE EMPLOYED ALASKANS.

WE THANK YOU FOR THE OPPORTUNITY OF COMING BEFORE THE SENATE INTERIM COMMITTEE MINORITY RELATIONS TO EXPLAIN THE ALASKA PLAN'S ROLE OF FUNCTION.

COMMENTS OF COOK INLET NATIVE ASSOCIATION ON
ALASKA SENATE "STUDY OF MINORITY RELATIONS"

NOVEMBER 17, 1979
ANCHORAGE, ALASKA

INTRODUCTION:

CHAIRMAN STIMSON AND MEMBERS OF THE ALASKA SENATE MINORITY RELATIONS COMMITTEE, MY NAME IS SYLVIA CARLSSON, OFFICIALLY REPRESENTING THE COOK INLET NATIVE ASSOCIATION (HEREAFTER CINA). ON BEHALF OF CINA EXECUTIVE DIRECTOR, BOARD OF DIRECTORS, AND STAFF, I WOULD LIKE TO EXPRESS OUR APPRECIATION FOR THE OPPORTUNITY AFFORDED US TO COMMENT ON ". . . THE PROBLEMS OF UNCOORDINATED AND OVERLAPPING EFFORTS OF VARIOUS COMMITTEES, BOARDS, AND COMMISSIONS FOCUSING ON DISCRIMINATION AND MINORITY RELATIONS. . ."

CINA IS AN ANCHORAGE-BASED, NON-PROFIT ALASKA NATIVE ORGANIZATION, ESTABLISHED IN 1964. WE SERVE APPROXIMATELY 16,000 ALASKA NATIVE PEOPLE, WHO LIVE IN OR PASS THROUGH THE ANCHORAGE AREA. WE PROVIDE A WIDE RANGE OF SERVICES IN SUCH AREAS AS HEALTH, EDUCATION, COMMUNITY DEVELOPMENT, EMPLOYMENT, AND TRAINING. IN ADDITION, SOME OF OUR PROGRAMS SERVE THE NEEDS OF THE ENTIRE ANCHORAGE COMMUNITY REGARDLESS OF ETHNIC BACKGROUND.

IT MAY BE OF SOME INTEREST TO YOUR COMMITTEE AND RELEVANT TO YOUR STUDY THAT CINA ESTABLISHED IN JANUARY, 1979, AN EMPLOYMENT RIGHTS OFFICE, OFTEN REFERRED TO AS THE "TERO." IT IS PATTERNED IN SOME RESPECTS AFTER THE NETWORK OF RESERVATION-BASED TRIBAL EMPLOYMENT RIGHTS OFFICES (HEREAFTER TERO) IN THE "LOWER 48." THE TERO

EFFORT BEGAN BECAUSE "AMERICAN INDIANS HAVE THE HIGHEST UNEMPLOYMENT RATE OF ANY GROUP IN THE COUNTRY; YET HAVE BENEFITTED LEAST FROM THE EXPANSION OF MINORITY EMPLOYMENT RIGHTS THAT HAVE OCCURRED OVER THE PAST TEN YEARS." 1/ OUR EMPLOYMENT RIGHTS OFFICE WAS ESTABLISHED TO PROMOTE GREATER EMPLOYMENT OPPORTUNITIES FOR ALASKAN NATIVES. RESPONSIBILITIES OF OUR PROGRAM INCLUDE:

- * SURVEYING THE WORKFORCE AND VISITING JOB SITES TO ENSURE THAT EXISTING LAWS, REGULATIONS, AND GUIDELINES ARE BEING FOLLOWED;
- * COUNSELING ALASKA NATIVE WORKERS CONCERNING THEIR EMPLOYMENT RIGHTS;
- * CONDUCTING TRAINING SESSIONS AND WORKSHOPS TO HELP REMOVE BARRIERS TO A GREATER ALASKA NATIVE PARTICIPATION IN THE WORKFORCE;
- * ENCOURAGING VILLAGE AND REGIONAL CORPORATIONS TO USE "INDIAN PREFERENCE" FOR ANY ECONOMIC DEVELOPMENT PROJECTS ON THEIR LAND;
- * DEVELOPING A MANUAL ON EMPLOYMENT RIGHTS AND RESPONSIBILITIES FOR ALASKA NATIVES

WE RECEIVE FUNDING FOR OUR EMPLOYMENT RIGHTS PROGRAM FROM THE U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (HEREAFTER EEOC) AND TITLE III OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (HEREAFTER CETA). EEOC FUNDS ONLY ONE OTHER ORGANIZATION IN THE STATE OF ALASKA; THAT IS, THE STATE COMMISSION ON HUMAN RIGHTS. WE HAVE THROUGH OUR CONTRACTUAL ARRANGEMENT WITH EEOC THE CAPABILITY OF CONDUCTING MONITORING AND COMPLIANCE ACTIVITIES. WE ARE ALSO EMPOWERED THROUGH OUR CONTRACTUAL RELATIONSHIP WITH EEOC TO ENTER INTO NEGOTIATIONS WITH EMPLOYERS ON BEHALF OF OUR CLIENTS.

1/ TRIBAL EMPLOYMENT RIGHTS OFFICES
"FINAL REPORT," ACKCO, INC. AND
RJ ASSOCIATES, AUGUST, 1978

IN ADDITION TO THE GENERAL ANTI-DISCRIMINATION PROVISIONS OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, OUR PROGRAM FOCUSES UPON SECTION 703 (i) OF THAT ACT, WHICH PERMITS PREFERENTIAL EMPLOYMENT OF ALASKA NATIVES AND AMERICAN INDIANS IN CERTAIN SITUATIONS. THIS SECTION OF THE LAW IS BASED ON CONGRESSIONAL RECOGNITION OF THE SOVEREIGN RIGHTS OF ALASKA NATIVES AND AMERICAN INDIANS AND THE SPECIAL RELATIONSHIP THAT ALASKA NATIVES AND AMERICAN INDIANS HAVE TO THE FEDERAL GOVERNMENT. WE ARE WELL AWARE THAT THE PREFERENTIAL LANGUAGE OF SECTION 703 (i) IS NOT CLEARLY UNDERSTOOD, NOR IS THE SPECIAL TRUST RELATIONSHIP THAT ALASKA NATIVES AND AMERICAN INDIANS HAVE TO THE FEDERAL GOVERNMENT. IT IS NEVERTHELESS, THE LEGAL "HOOK" THAT WE USE TO ENSURE THAT OUR PEOPLE GET THEIR FAIR SHARE OF EMPLOYMENT OPPORTUNITIES.

COMMENTS, CONCERNS, AND QUESTIONS REGARDING "MINORITY STUDY":

WE CONCUR THAT ". . . SPECIFIC PROBLEMS RELATING DIRECTLY TO THE RACIAL STATUS OF PERSONS EXIST IN MINORITY RELATIONS. . ." WE ARE ALSO SUPPORTIVE OF ANY LEGISLATIVE EFFORTS WHICH WILL PROVIDE FOR MORE "EFFICIENT GOVERNMENT."

WE WOULD LIKE TO KNOW WHAT STIMULATED YOUR INTEREST AND CONCERN IN THIS REGARD AND HOW THE FOCUS OF YOUR STUDY WAS DETERMINED. LEGISLATIVE RESOLVE NO. 1 STATES IN PART ". . . TO SEEK MEANS TO FOSTER COOPERATION AND CONCILIATION AMONG THE GROUPS AND ELEMENTS OF THE POPULATION OF THE STATE. . . ." WE WOULD LIKE TO KNOW WHAT "GROUPS" AND WHAT "ELEMENTS OF THE POPULATION OF THE STATE" YOU ARE SEEKING TO FOSTER COOPERATION AND CONCILIATION AMONG?

THE REASON FOR OUR CONCERN IS THAT ALASKA NATIVES CONSTITUTE THE LARGEST MINORITY GROUP IN THE STATE (17 PERCENT OF THE 23.3 PERCENT ON A STATEWIDE BASIS), AND ANY STUDIES OR GENERAL PUBLIC POLICIES DEVELOPED REGARDING MINORITY GROUP RELATIONSHIPS WILL AFFECT US GREATER THAN ANY OTHER MINORITY GROUP. IN BRIEF, WE WOULD LIKE TO KNOW WHAT THE ANTICIPATED OUTCOMES OF YOUR STUDY ARE AND WHETHER OR NOT YOU EXPECT TO INTRODUCE LEGISLATION BASED ON YOUR STUDY DURING THE NEXT SESSION.

CINA SUGGESTS THAT A MORE MEANINGFUL FOCUS FOR YOUR STUDY WOULD BE TO TEST THE EFFECTIVENESS OF THE EXISTING INSTITUTIONAL MECHANISMS, WHICH PROVIDE FOR REDRESS OF DISCRIMINATION PROBLEMS. OVER THE YEARS, THERE HAS BEEN A PROLIFERATION OF ENTITIES, FOCUSING UPON DISCRIMINATION. WE BELIEVE THAT RACISM, SEXISM, AND OTHER FORMS OF DISCRIMINATION ARE CHARACTERISTIC OF THE SOCIETY WE LIVE IN, AND WE ARE SUPPORTIVE OF THE DEVELOPMENT OF GROUPS, WHICH ADVOCATE FOR THE RIGHTS OF MINORITIES. WE BELIEVE, HOWEVER, THAT A CLEAR DISTINCTION MUST BE DRAWN BETWEEN ADVOCACY AND INSTITUTIONS HAVING THE AUTHORITY TO ENFORCE THE LAW. ALTHOUGH ALASKA NATIVES ARE THE LARGEST MINORITY IN THE STATE, STATISTICAL DATA ^{2/} SHOWS THAT WE DO NOT SEEK REDRESS THROUGH THE INSTITUTIONAL MECHANISMS FOR DISCRIMINATION PROBLEMS. THERE ARE PROBABLY MANY REASONS FOR THIS, I. E., GEOGRAPHICAL ISOLATION, LACK OF KNOWLEDGE, CONFUSION, ETC. WE BELIEVE THAT THE GENERAL PUBLIC AS WELL AS OUR OWN PEOPLE, ARE VERY OFTEN, CONFUSED ABOUT WHERE TO GO WITH PROBLEMS OF DISCRIMINATION. SINCE OUR PROGRAM BEGAN

^{2/} ANNUAL REPORT, ALASKA STATE COMMISSION
ON HUMAN RIGHTS (1978)
ANALYSIS OF CASES FILED WITH ANCHORAGE
EQUAL RIGHTS COMMISSION (1979)

WE HAVE HAD A NUMBER OF ALASKAN NATIVES COME TO US WITH COMPLAINTS OF ALLEGED DISCRIMINATION. WE HAVE ADVISED THEM OF THEIR RIGHTS UNDER THE LAW AND, WHERE APPROPRIATE, WE HAVE ENCOURAGED THEM TO FILE COMPLAINTS WITH THE ANCHORAGE EQUAL RIGHTS COMMISSION, THE ALASKA STATE HUMAN RIGHTS COMMISSION, ETC. WE DO NOT HAVE AT THIS TIME COMPLETE STATISTICAL DATA TO SHOW THE REASONS WHY THEY DID NOT GO DIRECTLY TO THE ENFORCEMENT AGENCIES; HOWEVER, WE CAN SAY WITH SOME DEGREE OF CERTAINTY THAT IN MOST CASES, THE COMPLAINANTS DID NOT UNDERSTAND THE SYSTEM. IN OTHER WORDS, THEY WERE CONFUSED. WE WOULD HOPE THAT YOUR COMMITTEE COULD FIND SOME MEANS OF ALLEVIATING THIS PROBLEM.

DOES YOUR COMMITTEE INTEND TO SCHEDULE HEARINGS IN RURAL ALASKA? IF NOT, WE WOULD STRONGLY URGE THAT YOU DO SO. THE REASON FOR THIS IS THAT ALASKA NATIVES LIVING IN RURAL ALASKA ARE CONFRONTED WITH THE SAME PROBLEMS OF DISCRIMINATION IN ALL AREAS, I. E., HOUSING, EMPLOYMENT, EDUCATION, PUBLIC ACCOMMODATION, CREDIT, HEALTH, ETC. THE PROBLEMS ARE COMPOUNDED BY THE FACT THAT THE INSTITUTIONAL MECHANISMS, WHICH WE TAKE FOR GRANTED IN URBAN ALASKA (CONFUSING AS THEY SOMETIMES ARE), ARE VIRTUALLY NONEXISTENT IN MOST PARTS OF RURAL ALASKA.

IN ADDITION TO YOUR PUBLIC HEARING, WHAT OTHER TYPES OF DATA GATHERING ARE YOU CONDUCTING? WHEN DO YOU EXPECT TO COMPLETE YOUR STUDY, AND HOW COMPREHENSIVE WILL YOUR STUDY BE?

CINA'S QUESTIONS ON BOARDS, COMMISSIONS, AND COMMITTEES:

WE WILL BE COMPILING, AS COMPREHENSIVE AS POSSIBLE, A LISTING OF ENFORCEMENT, COMPLIANCE, AND ADVISORY AGENCIES FOR USE BY OUR CLIENTS. AT PRESENT, WE ARE NOT AWARE THAT SUCH A LISTING EXISTS

ANYWHERE IN THE STATE; HOWEVER, WE ARE AWARE THAT THERE IS A MYRIAD OF AGENCIES FOCUSING ON DISCRIMINATION AT THE FEDERAL, STATE, AND LOCAL LEVEL; SOME HAVE STATUTORY AUTHORITY AND SOME DO NOT. WE HAVE SOME QUESTIONS ABOUT THE FOLLOWING:

ALASKA PLAN POLICY BOARD:

- A. HOW ARE SELECTIONS, ELECTIONS, OR APPOINTMENTS MADE TO THE ALASKA PLAN POLICY BOARD?
- B. OTHER THAN SPECIAL APPROPRIATIONS FROM THE ALASKA STATE LEGISLATURE, HOW ARE THEY FUNDED?
- C. ARE MINORITIES EFFECTIVELY SERVED BY THE ACTIVITIES OF THE ALASKA PLAN POLICY BOARD?
- D. HOW DOES THE ALASKA PLAN POLICY BOARD INTERFACE WITH OTHER ENFORCEMENT, COMPLIANCE, AND MONITORING AGENCIES?

ANCHORAGE RESOURCE AND RESEARCH CENTER:

- A. WHY WAS THIS AGENCY CREATED?
- B. WILL THE LEGISLATURE CONTINUE TO FUND THIS AGENCY?

STATE OF ALASKA, DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY:

- A. WHY IS THE ADVISORY COMMITTEE TO THIS IMPORTANT DIVISION NON-FUNCTIONAL?
- B. DOES THIS AGENCY HAVE ANY AUTHORITY FOR STATE OF ALASKA CONTRACT MONITORING AND COMPLIANCE?
- C. HOW EFFECTIVE IS THIS AGENCY?

STATE OF ALASKA, OMBUDSMAN'S OFFICE:

- A. THIS AGENCY DOES NOT HAVE JURISDICTION OVER THE REGIONAL RESOURCE CENTERS WHICH WERE CREATED TO SERVE THE RURAL EDUCATIONAL ATTENDANCE AREAS (REAA'S). WHY NOT?
- B. HOW DOES THIS AGENCY INTERFACE WITH OTHER AGENCIES ON PROBLEMS OF DISCRIMINATION?

CINA'S CONCERNS ABOUT BOARDS, COMMISSIONS, AND COMMITTEES:

WE WOULD LIKE TO REITERATE OUR CONCERN STATED EARLIER THAT THE EFFECTIVENESS OF EXISTING INSTITUTIONAL MECHANISMS FOR REDRESS OF DISCRIMINATION PROBLEMS MUST BE TESTED. THOSE AT THE STATE AND LOCAL LEVELS HAVING ENFORCEMENT AND QUASI-JUDICIAL POWERS THROUGH STATUTE OR ORDINANCE INCLUDE THE STATE HUMAN RIGHTS COMMISSION AND THE ANCHORAGE EQUAL RIGHTS COMMISSION. WE WOULD LIKE TO SEE THOSE AGENCIES ADEQUATELY FUNDED, TESTED FOR EFFECTIVENESS IF POSSIBLE, AND STRENGTHENED WHERE NECESSARY.

WE FEEL THERE IS A NEED FOR THE ESTABLISHMENT OF HUMAN RELATIONS AGENCIES, WITH SOME ENFORCEMENT POWERS AT THE LOCAL LEVEL, i. e., KENAI, MATANUSKA-SUSITNA BOROUGH, ETC. PERHAPS YOUR COMMITTEE COULD FIND A MEANS OF ADDRESSING THIS NEED.

CONCLUSION:

IN CONCLUSION, WE WOULD WISH TO STATE THAT WE ARE NOT OPPOSED TO YOUR STUDY OF MINORITY RELATIONS; HOWEVER, WE WOULD LIKE TO KNOW WHAT YOU EXPECT TO ACCOMPLISH AND HOW IT WILL AFFECT OUR PEOPLE.

WE WOULD LIKE TO RECOMMEND THE FOLLOWING:

1. THAT YOU HOLD PUBLIC HEARINGS IN RURAL ALASKA
2. THAT THE PURPOSE OF YOUR STUDY BE MORE CLEARLY DEFINED

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.



LAWS OF ALASKA

1978

Source

Chapter No.

SCS CSHB 303 am S

120

AN ACT

Creating the Alaska Commission on the Status of Women.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 44.19 is amended by adding new sections to read:

Sec. 44.19.956. CREATION OF COMMISSION. There is created in the Office of the Governor the Alaska Commission on the Status of Women.

Sec. 44.19.957. COMPOSITION. The commission consists of nine members and an ex officio member representing the office of the attorney general who shall serve at the pleasure of the governor.

Sec. 44.19.958. APPOINTMENT. (a) The members shall be appointed on a nonpartisan and nondiscriminatory basis by the governor within 60 days of the effective date of this Act. The members shall be residents of the state. At least one member shall be a homemaker who is not otherwise employed. In making the appointments, due consideration shall be given to

(1) the recommendations made by civic organizations, women's organizations, educational and vocational groups, employer groups, labor unions, church groups, homemakers clubs and organizations, and other groups having an interest in the status of women;

(2) statewide geographical representation of the commission; and

(3) minority and low-income representation.

chairperson and may select other commission officers as it considers necessary.

Sec. 44.19.959. MEETINGS. Within 60 days after the appointment of all the members of the commission, the governor shall call the first meeting of the commission. A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at the call of the chairperson, at the request of a majority of the members, or at a regularly scheduled time as determined by a majority of the members.

Sec. 44.19.961. TERMS OF OFFICE. The term of office of each member is five years. Terms shall be staggered. Initial terms shall be three members serving for one year, three members serving for three years, and three members serving for five years. A vacancy shall be filled for the balance of the unexpired term in the same manner as original appointments.

Sec. 44.19.962. COMPENSATION. Members of the commission receive no compensation for their services but are entitled to per diem and travel allowances authorized by law for other boards and commissions.

Sec. 44.19.963. PURPOSE. The purpose of the commission is to implement the recommendations contained in the preliminary study on the status of women in Alaska which was mandated by the Ninth Legislature, Second Session, under ch. 99 SLA 1976, and improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems, and contributions of women in Alaska including, but not limited to,

- (1) education,
- (2) homemaking,
- (3) civil and legal rights,
- (4) labor and employment.

Sec. 44.19.964. POWERS AND DUTIES. To accomplish its purpose, the commission may

- (1) hire an executive director and additional administrative staff as may be necessary to the commission's function;
- (2) act as a clearinghouse and coordinating body for governmental and nongovernmental information relating to the status of women;
- (3) cooperate with public and private agencies in joint efforts to study and resolve problems relating to the status of women in Alaska;
- (4) accumulate and compile information concerning discrimination against women;
- (5) disseminate the results of research and

compilation of data acquired under (5) of this section by publication and other methods such as public hearings, conferences, and seminars;

(6) study and analyze all facts relating to Alaska laws, regulations and guidelines with respect to equal protection for women under the state constitution;

(7) recommend legislative and administrative action on equal treatment and opportunities for women;

(8) select and retain the services of consultants whose advice is considered necessary to assist the commission in obtaining information;

(9) encourage women to utilize their capabilities and to assume leadership roles;

(10) establish standing committees among the members to investigate and make recommendations on various areas of concern;

(11) create task forces composed of commission members and other experts as needed;

(12) accept monetary gifts or grants from the federal government or an agency of it, from any charitable foundation or professional association or from any other reputable source for implementation of any program necessary or desirable for carrying out the general purposes of the commission.

Sec. 44.19.966. ANNUAL REPORT. Each year the commission shall file a report with the governor and the legislature of its proceedings for the previous calendar year and shall submit recommendations for legislative and administrative action. Reports and recommendations required under this section shall be prepared no later than the convening of the legislature.

* Sec. 2. The Alaska Commission on the Status of Women created under AS 44.19.956 shall terminate on June 30, 1983.

HUMAN RIGHTS COMMISSION

204 East 5th Avenue
Room 213
Anchorage, Alaska 99501
Phone: 276-7474

Statement of
Alaska State Commission for Human Rights
before
Senate Minority Relations Committee
November 17, 1979
Niel Thomas, Executive Director

The Human Rights Commission appreciates the opportunity to share with this Senate Committee a description of its responsibilities. During our presentation I will try to highlight the significant differences between our agency and other organizations which address discrimination against minority people.

Commission's legal authority

The Alaska Constitution forbids discrimination and requires the Legislature to implement that provision. The Legislature did so in 1963 by passing a set of laws, at AS 18.80, prohibiting discriminatory practices. That same law established the Human Rights Commission. We are a State agency within the Office of the Governor. The Governor appoints seven citizens as Commissioners. Their function is not unlike the Board of Directors of a corporation. They set the overall policy for the agency, hire and supervise the Executive Director, and decide cases after they have reached the public hearing stage. (I will discuss how the Commission handles cases in somewhat more detail later.) The Commissioners receive legal advice from the Attorney General, a separate department in Alaska State Government. The Attorney General's Office also represents the Commission when it must appear in court.

In 1974 the Commissioners made a major shift in policy when they decided that their primary responsibility was to vigorously enforce Alaska's laws against discrimination. The Commissioners agreed upon this policy because they recognize that the Human Rights Commission is the only agency which has the responsibility and the right under State Law to accept and decide discrimination complaints. There are other boards and commissions, community organizations which are not part of the government, and entities within municipal governments which have an interest in seeing discriminatory practices end, but none of them has the authority which the Human Rights Commission has.



In order to address the problems and needs of Alaska's women in the 80s, and to recognize their contributions, the Alaska State Legislature in 1978 created the Commission on the Status of Women in the Office of the Governor.

Recognizing the need for action to guarantee the fullest possible involvement of women in the life of Alaska, the Legislature gave the Commission five years, until June 30, 1983, in which to accomplish some specific tasks.

CORRECTION

CORRECTION

STATUS OF WOMEN



In order to address the problems and needs of Alaska's women in the 80s, and to recognize their contributions, the Alaska State Legislature in 1978 created the Commission on the Status of Women in the Office of the Governor.

Recognizing the need for action to guarantee the fullest possible involvement of women in the life of Alaska, the Legislature gave the Commission five years, until June 30, 1983, in which to accomplish some specific tasks.



WHAT THE LAW SAYS

The law states "the purpose of the Commission is to implement the recommendations contained in the preliminary study on the status of women in Alaska . . . and improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems and contributions of women in Alaska including, but not limited to,

- (1) education,
- (2) homemaking,
- (3) civil and legal rights,
- (4) labor and employment."

To help the Commission fulfill its purpose, the law gives administrative guidelines and further states that the Commission may:

- Review Alaska laws, regulations and guidelines with respect to equal protection for women;
- Cooperate with public and private agencies to study and resolve problems relating to the status of women in Alaska;
- Recommend legislative and administrative action on equal treatment for women;
- Encourage women to assume leadership roles;
- Act as a clearinghouse for information relating to the status of women;
- Disseminate the results of research.

As you can see, the Commission is unique. Its activities do not duplicate the work of any other commission or governmental body. Unlike some commissions, for example, it has no regulatory or law enforcement authority, nor does it deal directly with complaints from individuals of alleged discrimination (these complaints are investigated by the Alaska Human Rights Commission). Instead, the Commission on the Status of Women is a new resource for the people of Alaska, and the results of its research projects will be used to inform and advise the Office of the Governor, the Legislature, state agencies and others on changes needed to improve the status of women in Alaska.

The Work Has Begun

Initial meetings of the Commission on the Status of Women were held in 1978, and the Commission established its office in January 1979. Staff has been hired, and the Commission has started its first-year program.

Some of the first-year activities include updating the recommendations in the preliminary study, asking village and community groups to express their concerns and assisting policy-makers in a variety of areas. Also, the Commission is establishing a clearinghouse for information about women's issues.

With a clear mandate from the Legislature, the Commission on the Status of Women is action oriented. Its goal is to compile and use research data for the basis of recommendations for action to Alaska's policymakers. With this analytical approach, the Commission intends to foster achievements which will guarantee equal treatment under the law to each of Alaska's men, women and children, achievements which will help assure every person in Alaska an equal opportunity to reach his or her full potential.



WE

NEED

YOUR

HELP

The Commission needs your help. It needs to know what you think, what your concerns are, if you've encountered some problems which you think might affect other women, too. So, please, let the Commission know of your concerns and needs, keep the Commission informed of your organization's activities or, if you live in a village or community where there is no women's organization, let the Commission know what women in your area are doing and how they plan to proceed to deal with their issues.

DISCRIMINATED AGAINST?

If you have a complaint about discrimination, please contact the Alaska Human Rights Commission which has offices in the following cities:

Anchorage	274-4692
Fairbanks	452-1584
Juneau	465-3560

Want to Know More?

For more information, or to arrange for a speaker about the Commission, please contact the Commission office at 338 Denali Street, Suite 850, Anchorage, Alaska 99501. The telephone number is (907) 276-3003.

To:

The Alaska Commission on the
Status of Women
Office of the Governor
338 Denali Street, Suite 850
Anchorage, Alaska 99501



UNA INTRODUCCIÓN A LA COMISIÓN DE ALASKA SOBRE LA CONDICIÓN DE LAS MUJERES



Para examinar los problemas y las necesidades de las mujeres de Alaska en los años 30, y para reconocer sus contribuciones, la Legislatura del Estado de Alaska estableció en 1978 la Comisión sobre la Condición de las Mujeres dentro de la Oficina del Gobernador.

Al reconocer la necesidad de acción para garantizar la mayor participación posible de las mujeres en la vida de Alaska, la Legislatura otorgó a la Comisión cinco años, hasta el 30 de junio de 1983, para llevar a cabo ciertos labores específicos.

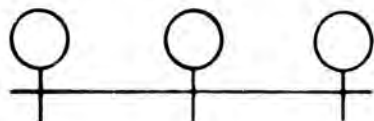
LO QUE DICE LA LEY

La ley declara que "el propósito de la Comisión es de poner en ejecución las recomendaciones dadas en el estudio preliminar sobre la condición de las mujeres en Alaska...y de mejorar la condición de las mujeres en Alaska por medio de investigaciones suplementarias y la sugerencia y ejecución de recomendaciones adicionales sobre las oportunidades, las necesidades, los problemas y las contribuciones de las mujeres en Alaska inclusive pero no limitados a

- 1) la educación
- 2) las ciencias domésticas
- 3) los derechos civiles y legales
- 4) el trabajo y empleo

Para ayudar la Comisión a llevar a cabo sus propósitos la ley estableció pautas administrativas y declara además que la Comisión puede:

- Examinar las leyes, los reglamentos y las pautas administrativas de Alaska con respeto a la igualdad de protección para las mujeres;
- Cooperar con agencias públicas y particulares para investigar y resolver problemas relacionados con la condición de las mujeres en Alaska;
- Recomendar legislación y acción administrativa para el trato igual para las mujeres;
- Animar a las mujeres para que tomen cargos dirigentes.
- Funcionar como almacén de información relacionada con la condición de las mujeres;
- Diseminar los resultados de las investigaciones.



INVESTIGACIÓN, ACCIÓN, REALIZACIÓN

Usted comprenderá que la Comisión es especial. No hace de nuevo el trabajo de ninguna otra comisión ni organización gubernamental. En contraste con otras comisiones, por ejemplo, no tiene autoridad para reglamentar o ejecutar leyes, ni tiene trato directo con individuos que se quejan de discriminación supuesta (tales quejas se investigan por la Comisión de Derechos Humanos de Alaska). Al contrario, la Comisión sobre la Condición de las Mujeres es un nuevo recurso para las personas en Alaska, y los resultados de sus investigaciones serán utilizados para informar y aconsejar a la Oficina del Gobernador, la Legislatura, las agencias estatales y otros sobre los cambios necesarios para mejorar la condición de las mujeres en Alaska.

Con un encargo inequívoco de la Legislatura, la Comisión sobre la Condición de las Mujeres se orienta hacia la acción. Su meta es de acumular y utilizar datos de investigación como base para sus recomendaciones de acción por parte de los dirigentes políticos de Alaska. Con este enfrentamiento analítico la Comisión pretende estimular resultados que garanticen, el tratamiento legal bajo la ley para cada hombre, mujer y niño de Alaska, resultados que contribuyan a asegurar que cada persona en Alaska tenga una igualdad de oportunidad para utilizar su plena capacidad.

SE HA COMENZADO EL TRABAJO

Las reuniones preliminares de la Comisión sobre la Condición de las Mujeres tuvieron lugar en 1978, y la Comisión estableció su oficina en Enero de 1979. Se ha contratado el personal y se ha iniciado el programa para el primer año de la Comisión.

Algunas de las actividades del primer año son: poner al día las recomendaciones del estudio preliminar, pedir a organizaciones de pueblos y comunidades que dejen conocer sus preocupaciones, aconsejar a los dirigentes políticos en diferentes campos. La comisión esta organizando además un almacén de información sobre preocupaciones femininas.



La Comisión necesita su ayuda. Necesita saber lo que Ud. piensa, lo que le preocupa, cuáles son los problemas que Ud. ha encontrado y que pueden afectar también a otras mujeres. Le rogamos que a la Comisión sobre sus preocupaciones y necesidades, que nos informe sobre las actividades de su organización, o, si Ud. vive en un pueblo o una comunidad donde no existe una organización de mujeres, que nos informe sobre lo que están haciendo las mujeres en su vecindad y qué planes tienen para enfrentarse con sus problemas.

¿HA SUFRIDO DISCRIMINACION?

Si usted quiere quejarse de discriminación, favor de notificar la Comisión de los Derechos Humanos de Alaska con oficinas en las siguientes ciudades:

Anchorage	274-4692
Fairbanks	452-1584
Juneau	465-3560

¿QUIERE SABER MAS?

Para más información, o para solicitar una visita de alguien que pueda hablar sobre la Comisión, comuníquese con la oficina de la Comisión en 338 Denali Street, Suite 850, Anchorage, Alaska 99501. El número de teléfono es (907) 276-3003.



The Alaska Commission on the
Status of Women
Office of the Governor
338 Denali Street, Suite 850
Anchorage, Alaska 99501



**: PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

The Commission has the obligation to teach the public what those laws require. This means that the Commission teaches people what rights they have under the law. It also helps those who must comply with the law. The Commission meets with community organizations and with individuals and handles thousands of inquiries each year from people who want to know what their rights are. The Commission also holds workshops and seminars for employers and other organizations to show them how to avoid discrimination complaints.

Racial minorities are protected from discrimination in employment, housing, credit and finance, public accommodations, and practices and services of government at all levels. The laws govern employers, labor unions, apprenticeship councils, and employment agencies; people who sell, lease or rent houses, apartments or land; banks, credit unions, saving and loan associations, restaurants, bars, hotels, and discos; and all agencies of state and local (but not the federal) government.

The Commission cannot handle complaints against the federal government; each federal agency investigates itself, after which there are appeal rights, complaints to other federal agencies and lawsuits in the federal court system. We get many inquiries from people who have problems with federal agencies and we make efforts to see that they get to the right federal source.

Commission's staff and budget

The Commission maintains staff offices in Anchorage, Fairbanks and Juneau. There is a permanent staff of 24 persons. The current budget, including Federal funds, is slightly over \$1 million. Assistant Directors manage these three field offices. The Anchorage and Fairbanks Assistant Directors each have three investigators, an investigator assistant, and a clerical worker. In Juneau there is one investigator, an assistant, and a clerical worker. There is also a statewide unit headed by an Assistant Director who plans major cases of discrimination which involve many people across the state. (A description of this "systemic program" follows the discussion of case processing.)

The Headquarters staff consists of the Executive Director, a secretary, an administrative assistant, and a lawyer and an assistant who present cases at public hearings. Under a contract with the Municipality of Anchorage's CETA Program due to expire in February, these last two units have five temporary workers (in addition to the 24 permanent staff members) who assist with the Systemic Program and with the hearings process. The Commission has a word processing operator who handles a substantial volume of clerical work from the Commissioners,

Executive Director, Hearing Unit and Systemic Program and serves as backup for workload jams when they occur in the field offices. Finally, the Commission has an additional temporary clerical worker in both its Anchorage and Fairbanks field offices because one permanent secretary is not enough to keep up with the output of five professionals who are turning out cases.

Because of budget reductions in the current fiscal year, the Commission is leaving three of its positions vacant for the balance of the year. The Commission assigned most administrative work to its Juneau office, triggering a rapidly growing backlog of cases there. We will have the same problem in Fairbanks with one of three investigator jobs vacant. Cases are taking longer to get through the hearing stage because one attorney and an assistant are not able to keep up. The Commission has eliminated all training for its staff, all travel of the Executive Director, all travel for public education purposes, all out-of-state travel except for investigative or hearing purposes, and will hold only three business meetings of Commissioners, with none outside of Anchorage. Because the Commission will not be able to complete as many cases as it has contracted for, the Commission will also lose approximately \$30,000 in federal funds which it receives when the federal government reimburses the Commission for cases which it completes under federal law. (I will discuss this relationship with the federal government in more detail later.)

How the Commission handles cases: (1) Inquiries

The Commission's cases mostly begin as telephone inquiries. The staff is trained to speak with everyone who voices a problem and make an appointment for a detailed interview if the person's story indicates that he or she is being discriminated against. Occasionally someone will insist upon an interview even though it is obvious that the person does not have a problem of discrimination: we do meet with such people and help them understand why we cannot deal with their problem. We send them to the proper source if there is another agency which can help them. The staff which deals with the public is evaluated on how accurately they sort out discrimination problems from problems which we cannot handle. They are also evaluated on the accuracy with which they refer people to other agencies, because we share the concern of this Committee that the government should not be giving people the run-around.

(2) Intake

When a person comes in for an appointment, a professional staff member (not a secretary) interviews the person and makes detailed notes about the individual's experience. Many complaints are sorted out at this stage. This detailed pro-

initial screening has helped reduce the number of cases we accept. People who do not have cases which the Human Rights Law can address are sent to the correct agency, and, again, the staff is evaluated on how effectively it carries out this responsibility.

(3) Investigation and fact-finding conferences

If we do accept the person's complaint, it is summarized on a complaint form which is sent immediately to the person against whom the complaint is filed. The staff's responsibility at that stage is to investigate the complaint impartially. This means gathering all the facts without making a judgment about who is right until all the facts are in. We have found that it is very efficient to investigate by having both the parties, the Complainant and the person against whom the complaint was filed (the Respondent), in our office at the same time. We tell both of them in advance what information to bring with them which will help us decide the issue. We have discovered that at least half of the complaints can be settled at this stage. That is why we call this meeting a "resolution conference". All complaints which were filed after October 1, 1979 which do not settle at these conferences are then assigned for immediate investigation until the case is concluded. Our target is to resolve these cases in an average of six months. Cases filed before October 1 are called backlog: they are being investigated in the order in which they were filed. We estimate that the backlog elimination date will be extended to 1981, instead of late 1980, because of this year's budget.

When all the facts are in, the Commission's staff writes a finding and gives it to the Complainant and the Respondent. If no violation of the law has occurred, the staff dismisses the complaint and tells the Complainant in writing about his or her right to file an appeal to the chairperson of the Commission. If an appeal is filed, the chairperson reviews the entire file (and has advice available from the Department of Law). The chairperson has the authority to order the case to be reopened and to give directions to the staff on what should be done.

If the staff believes that a violation has occurred, a copy of an agreement which will resolve the case is sent to the Complainant and the Respondent along with the findings. The Commission staff then attempts to negotiate with the Respondent an agreement along these lines on behalf of the Complainant. If these efforts are not successful the complaint moves to the hearing stage.

(4) Public hearings

At the hearing stage the entire file is sent from the field office to the hearing unit in Anchorage. The attorney from the

...with the Commissioners to conduct the hearing. In general, the Commissioners appoint a lawyer as hearing examiner. That examiner's responsibility is to take all the evidence and make a recommendation to the Commissioners, who make the final decision. The staff hearing unit at the central office presents the case in support of the complaint; the Respondent is usually represented by a lawyer to defend the case. Although the proceeding is not as complicated as a full-dress Superior Court trial, it has the same basic elements, including the right to call witnesses and cross-examine them, offer documents and evidence, and make legal arguments. Hearings are public and a transcript is made.

(5) Judicial review

After the Commissioners make the final decision on the outcome of the case, either the Complainant or the Respondent may have the Commission's order reviewed by the Superior Court, with the possibility of appeal to the Supreme Court of Alaska.

Five cases involving the Human Rights Law have reached the Alaska Supreme Court; one case found its way into the Federal Courts and was decided at the Ninth Circuit Court of Appeals at San Francisco. In each case, the courts have rejected all challenges to the validity of the Human Rights Law and have ruled in favor of the issues as the Human Rights Commission saw them. In general the courts have been saying that the Legislature intended to "put as much teeth in the law as possible" and that state laws against discrimination are to be interpreted "more broadly" than federal laws. As the laws are being interpreted by our highest court, it is safe to say that Alaska appears to have the strongest body of civil rights law in the country.

The Commission's success

What good comes of all these laws, procedures and the efforts of Commissioners and staff? We are proud of our record in the past five years and are pleased to report that we have been making substantial progress. Understanding this progress requires a short discussion of what discrimination is, because discrimination as a legal concept is very subtle. There are two different types of discrimination and there is a strategy to attack each.

The first is known in the lingo "systemic discrimination". We described the phenomenon in our 1977 report to the Legislature, the theme of which was "the customary way of doing things":

America is not far-removed from the time when its fundamental documents, the Constitution and the laws of the nation, created discrimination. In voting,

in education, in employment, and in many of society's benefits, minorities and women, under color of law, were denied fundamental rights.

Those times have changed. Overtly discriminatory laws have been removed from the books. Many of them have been replaced by laws which specifically protect the rights of all.

Still, the elimination of legally-enforceable discrimination has not produced a non-discriminatory society. Instead, where discrimination used to be enforced by law, it has now gone underground. Many of the same practices still exist, but appear more subtly in the form of "institutional racism and sexism". That phrase triggers emotions. But in its most neutral sense, it means that the customary way of doing things often tends to work to the disadvantage of identifiable groups of persons. Where there is some rational basis for these customs, they sometimes can be justified. Many times they cannot. Instead, it can often be shown that today these customs serve no good purpose at all. They only serve as artificial exclusionary barriers to minorities, women and other groups which modern laws seek to protect.

The qualifications which many employers use, for example, wash out minority people who can do a job even though the standard does not sort out good applicants from poor ones. Not hiring people with arrest records, requiring a high school diploma for low-level jobs, firing people whose wages are garnished and giving those so-called intelligence tests produce this adverse effect on minority people. These devices are not often used consciously to discriminate. They are practices which have become associated long-standing systems of doing business, hence the term "systemic discrimination". These practices are neutral on their face. They are discriminatory in operating.—They are against the law.

How does a government agency surface this Loch Ness monster? Our answer is the systemic program mentioned earlier. We research which entities are the most likely offenders. We initiate investigations, following the procedures just described. We negotiate settlements which eliminate the practices. Where settlement fails we move to enforcement.

The systemic program as a concerted agency activity is relatively new at the Commission but this type of case is not. We are now settling dozens of claims of women for back pay growing out of the pipeline. We are moving to arbitration against the State in a controversy over the exam for trooper

recruits. We are looking into the health care program's services to natives. We are asking why two large state job classifications, nurses aides (females) and physician's assistants (males) are paid differently when the work seems substantially equal. We analyzed 66 major employer's workforces and released a report with findings. I am now beginning to file the first complaints growing out of that study against employers which appear to have the worst records and which have refused to meet with us voluntarily to negotiate agreements to resolve deficiencies. As the Commission conquers its backlog of individual cases, proportionately more time will go toward systemic cases.

I mentioned two types of discrimination. The second is called "differential treatment". These are instances in which people are treated differently, with race, age, sex, etc., the operating force. It is usually a single individual who is affected. We follow the standard case procedures, comparing what happened to him or her with how other people were treated. These cases can be very complex as allegations and counter-allegations are thrown back and forth, but we are trained to dig for the truth and negotiate a resolution. The threat of enforcement proceedings provides the incentive for conciliation.

These differential treatment cases can have a broad impact, because we hear the results and steer away from creating the same situations. The Wondzell case, which dealt with religious discrimination in employment against Seventh Day Adventists, and the Simpson case of mandatory retirement are examples. There two cases, and many others which first started with an individual's problem, wind up eliminating for all time some very common abuses.

Adding up the ledger between the end of 1974 when the Commission began its enforcement approach, and the end of the last fiscal year, we have resolved 2,452 cases, 146 fewer than we have taken in. The backlog which peaked just short of 800 cases during 1977 is now down below 500 cases for the first time since early 1975. Finally, in the dollars column, where it really counts, the total losses of wages and other benefits the Commission has returned to people who filed complaints has been \$2,226,000. That does not include anyone who benefitted indirectly from Commission cases when an employer, for instance, backed away from or abandoned unlawful practices after hearing of Commission actions.

Rural Alaska

The Commission senses a particular obligation to serve rural Alaska, because Alaska natives often experience discrimination, and seven out of ten natives live in rural Alaska. One of the

three priorities for systemic cases adopted by the Commissioners is to eliminate discrimination in the provision of state services in rural areas.

The Commission has experimented with stationing VISTA workers in rural areas, having an office in Barrow, and, in the past fiscal year, letting contracts to rural-based institutions to carry out Commission programs. We have found the contracting idea to be the most cost-effective, but to date neither the Governor nor the Legislature have chosen to support appropriations for this purpose. The need still exists, however, not only to process rural cases, but more particularly to provide information to rural people about their rights and what avenues of relief exist.

What related agencies do: (1) Federal agencies

There are a number of other agencies and organizations which have an interest in eliminating discriminatory practices. Each is distinctly different from the Human Rights Commission. To the extent that we have interests in common, we work together to be sure that we do not get in each other's way. For example, in the employment discrimination field the federal government has the Equal Employment Opportunity Commission (EEOC). EEOC can accept discrimination complaints, but does not hold hearings and issue orders like the Human Rights Commission. Instead, if EEOC cannot settle a case after investigating, it sues the Respondent in federal court. It may also join a suit filed by a private party. (Alaskans may also sue under the state law in Superior Court: no prior filing with an agency is required.)

EEOC is not very active in Alaska for two reasons. First, it has no offices here: its District Office which serves Alaska is located in Seattle. More to the point, the federal law requires EEOC to give "substantial weight" to the final findings and orders of agencies like our State Human Rights Commission. The federal law also prohibits the federal government from beginning a case for 60 days if the Human Rights Commission is handling it. By a memorandum of understanding with EEOC we have extended this principle so that with few exceptions EEOC has agreed not to begin investigating any case that we have accepted initially. When we accept a complaint we also send a copy of it to the EEOC so that it is in their system in case they later have to investigate it. (It is also important to do this because the Complainant may decide to go to federal court instead of staying with the state procedures.)

In recent years, the EEOC has been accepting virtually every result which we have achieved in Human Rights Commission cases. When EEOC does that, they close their case. Therefore, the EEOC has rarely found it necessary to process an employment

discrimination case coming from Alaska. Instead, the EEOC gives the State of Alaska \$350 for every case which the Human Rights Commission does which it finds acceptable. This comes to about \$128,000 per year, or slightly over 10% of the Commission's total budget. That is why the State budget reduction during the current fiscal year was dismaying, because the loss of State money decreased the Commission's production and will cause a further loss of federal funds. The amount we receive per case will also be reduced if we are unable to meet EEOC quality standards of rapid processing and emphasis on negotiated settlements.

The EEOC frequently taps the expertise of the Alaska Commission. For the past 18 months I have been intimately involved with an in-house effort of the EEOC to rewrite EEOC's entire relationship with state and local human rights agencies. We have restructured the program from top-to-bottom, making the funding policies more fair, standardizing the system for reviewing cases, and designing training systems. I also sold EEOC on the idea that it should set up a system for certifying state human rights programs so as to eliminate the need for federal review of every case resolved at the state level.

There are other federal agencies which handle discrimination complaints, including the Department of Housing and Urban Development (housing discrimination); the Treasury's Office of Revenue Sharing (complaints of discrimination in use of revenue sharing funds by municipal governments); the Law Enforcement Assistance Administration (complaints in the use of LEAA money by criminal justice agencies); and the Labor Department Office of Federal Contract Compliance (discrimination problems with federal contractors). The Human Rights Commission has negotiated agreements or working understandings with each of these agencies so that cases filed with the Commission do not trigger duplicate investigations by federal agencies. These agreements also generally provide that if a complaint is first filed with the federal agency the Human Rights Commission will handle it under State law and usually resolve the problem to the satisfaction of the federal agency.

The United States Commission on Civil Rights is an agency different from the other federal agencies because it does not have the power to enforce laws against discrimination. Instead, its function is to study problems of discrimination and make recommendations. The agency has advisory committees in each state, including Alaska. The Alaska Advisory Committee's major project in the past few years has been a study of alleged discriminatory employment practices by Alaska state government. Its report is being circulated among the members of the Advisory Committee for comment and should be released in the next few months.

(2) Municipal agencies

Some municipal governments have also involved themselves with discrimination issues. The State Human Rights Law permits local governments to establish human rights commissions along the lines of the state agency. (See AS 18.80.190.) Only Anchorage has passed a detailed ordinance and established a Commission which has investigative and remedial powers similar to the State Commission. The agency, known as the Anchorage Equal Rights Commission, accepts discrimination complaints and processes them in a fashion which is very similar to our agency. Our Anchorage field office and the Equal Rights Commission communicate regularly so that before any case is investigated each agency knows which is going to handle it. In general, whichever agency resolves the complaint eliminates the need for a duplicate investigation by the other agency.

Juneau has established a citizen committee which can study problems of discrimination and make recommendations to the municipal government. It does not have a staff and it does not accept or investigate discrimination complaints.

Fairbanks recently passed an ordinance establishing a Commission and funding a small staff. The ordinance prohibits discrimination in public accommodations and employment only. The Commission has subpoena power and it can accept complaints.

(3) State agencies

On the State level there are several agencies which deal with discrimination issues.

The Commission on the Status of Women is a short-term agency created with a five year lifespan. It is to study the status of women, in addition to the problems of discrimination which are unique to women, including minority women. The difference between this agency the Human Rights Commission is that the Women's Commission studies problems and makes recommendations but does not have the authority to accept complaints or investigate them. As its work progresses, however, its recommendations may be very helpful to the Human Rights Commissioners in setting long-term policies and objectives in cases which affect minority women.

The Human Rights Law prohibits employment discrimination, including discrimination by Alaska state government and municipal governments. In order to comply with these laws, the State has established its own office which advises its agencies on how to comply with the Human Rights Law. The office is a division within the State Department of Administration. It tries to resolve discrimination problems before they become cases with the Human Rights Commission. It also helps the

departments provide "affirmative action plans", written documents which analyze potential employment discrimination and eliminate them at an early stage. These plans also establish goals for the employment of minority people and timetables within which those goals are to be accomplished.

The Municipality of Anchorage has a similar office with the same purpose. It is part of the Department of Social Services and is known as the Affirmative Action Office. (Its administrator is also a member of the State Human Rights Commission.)

Non-government activities: (1) Private EEO programs

Up to this point we have been describing various governmental efforts to identify and eliminate discriminatory practices. We have tried to show what the Human Rights Commission does as distinguished from the functions of other government agencies. Many of these efforts are supported, however, by activities within the private sector which are not part of the government.

Outside of the government many large companies in the private sector also have internal equal employment programs. They advise company managers how to avoid discrimination complaints. They help write plans which anticipate problems of discrimination and set goals and timetables for hiring minority people.

(2) Community organizations

In addition to voluntary efforts by individual companies, there are a number of community-based organizations which advocate for the rights of minority people. The list is a long one and familiar to many people, but some of the leading organizations are the Cook Inlet Native Association's Tribal Employment Rights Office, the Black Caucus, the National Association for the Advancement of Colored People, the Alaska Federation of Natives, Hispanic Alaskans, Inc., many of the native non-profit corporations, and various feminist groups which place a special emphasis on the rights of minority women. These groups are an essential ingredient in society's collective efforts to eliminate discrimination. Without the pressure that their advocacy creates, many governmental efforts, (and legitimate efforts by employers and others trying to eliminate discriminatory practices) would be less successful.

(3) Alaska Plan

There is one further non-governmental entity which needs to be distinguished from the Human Rights Commission. That is the Alaska Plan Policy Board, Inc. The Alaska Plan is not a government agency: it is a private non-profit corporation. Its Board of Directors consists of minority people and representatives of those entities which must comply with laws against

discrimination in the employment fields, labor unions and major employers. Board members appoint their own successors.

The Alaska Plan was formed at a time when the federal government's policy was to encourage local communities to resolve problems of discrimination in the construction field without the need for federal enforcement. The President had by executive order established an Office of Federal Contract Compliance as part of the U. S. Labor Department. OFCC required federal government contractors to make plans to eliminate discrimination by adopting goals and timetables for the employment of minority people. The penalty for failing to make "good faith efforts" in this direction was (and still is) debarment from federal contracts. The OFCC regulations permitted local communities to establish voluntarily citizen groups to carry on these activities on behalf of the federal government. OFCC funded these "hometown plans". The Alaska Plan was formed as pipeline construction was to begin and was supported by these funds.

Shortly after President Carter took office, his civil rights reorganization plan centralized federal activities in the contract compliance area. OFCC added an initial: it became OFCCP (for "Programs") and issued a determination that hometown plans nationally (without making specific reference to the Alaska Plan, of course) had been "abject failures". Henceforward, OFCCP said, it would enforce contract compliance regulations itself and not provide further funding for "hometown plans", including the Alaska Plan. Since that time, the Alaska Plan has continued to operate with funding from the Alaska Legislature; it does not have any authority under state law to investigate or enforce anything; its only power is persuasion. It is largely involved with placing minority people in construction jobs, not unlike the State Job Service.

Indeed, it was this lack of enforcement capability, and the fact that companies and unions usually controlled hometown plans, which caused OFCCP to eliminate them from most participation in federal contract compliance enforcement activities. This Federal action has been supported by the national NAACP, which opposes Federal abdication of its enforcement responsibility to non-governmental entities.

Preparing for the Alaska Gasline

Some further words may be appropriate in looking to the future because we would not like to see another recurrence of hundreds of discrimination complaints when the Alaska Gasline construction begins. We believe Alaska is far better prepared to meet this challenge than it was in 1974 when the Alyeska project began.

Kansas Pipeline

Many of the discriminatory practices which were common 50 years ago have been eliminated as a result of Human Rights Commission cases and the concerted efforts of all these organizations concerned with problems of discrimination. For example, since the Commission's case against the Culinary Union local in Fairbanks was decided in the Supreme Court, few employers now argue seriously that women can be denied jobs at remote locations because the employer has no facilities for them. Although the issue generated dozens of complaints during the Alyeska Project, we would anticipate that it would hardly arise at all during the gasline.

Second, the Human Rights Commission is far better prepared to handle discrimination complaints than it was in 1974. At that time, the Commission was funded with only \$200,000 in State money (seven positions) and virtually no federal funds. It did not have the technical capability to handle cases efficiently. It did not even know how many cases it had in the first place. Now the Commission's case processing and record keeping systems are among the most sophisticated in the country.

The Commission has established through its court cases and hearing decisions of Commissioners that the Human Rights Law is extremely sound and its procedures are a reliable vehicle for resolving complaints. Never again will the Commission have to spend years in court arguing whether it has the power to initiate a complaint on behalf of many people, whether it has the power to subpoena witnesses and documents, whether punitive damages can be awarded by courts in employment discrimination cases, whether attorney fees can be assessed against Complainants whose cases are dismissed at the investigative stage, and so on and so on. The procedural defenses available to those charged with discrimination are becoming fewer and fewer; instead, the Commission is in a far better position to deal with substantive issues.

Finally, there is a concerted effort between the federal and state governments to eliminate duplication and competition among agencies having the authority to enforce laws against discrimination. We have had series of meetings with the Federal Inspector, the EEOC, the OFCCP, the Civil Rights Commission, and the Department of Interior to persuade those agencies that the Human Rights Commission is a viable, well-funded, professionally staffed organization which can resolve virtually all discrimination complaints which may arise during the gasline. At the state level, the Department of Labor has already agreed (if the Legislature is willing) to transfer its duplicate jurisdiction over equal pay cases to the Human Rights Commission. We are aware that the State Pipeline Coordinator is negotiating a lump sum payment from Northwest Pipeline to the State which can be given to any State agency whose workload increases as a result of gasline construction. The Human

Rights Commission anticipates that if its workload does increase that it will receive a portion of the funding to accommodate the workload. We are also finalizing a working understanding with the OFCCP so that we can distinguish between what the Federal Inspector (or OFCCP) will do in the area of affirmative action plans and minority business enterprise, as opposed to what the Human Rights Commission will do in the area of discrimination complaints.

Conclusion

We sincerely appreciate the efforts of this Committee to help the public understand the differences between agencies which have concern for problems of discrimination. At the same time, we have welcomed the opportunity to share with you the efforts we are undertaking to ensure that duplication of functions is avoided and that discrimination in Alaska disappears rapidly.

STATE HUMAN RIGHTS COMMISSION

Commissioners alone
and nobody else:

- * Decides cases

- * Hires Director
(Governor's
approval)

- * Supervises Director

- * Sets agencies policy
if not contrary to
state laws

COMMISSIONERS
(seven)

Submits to Governor's Office:

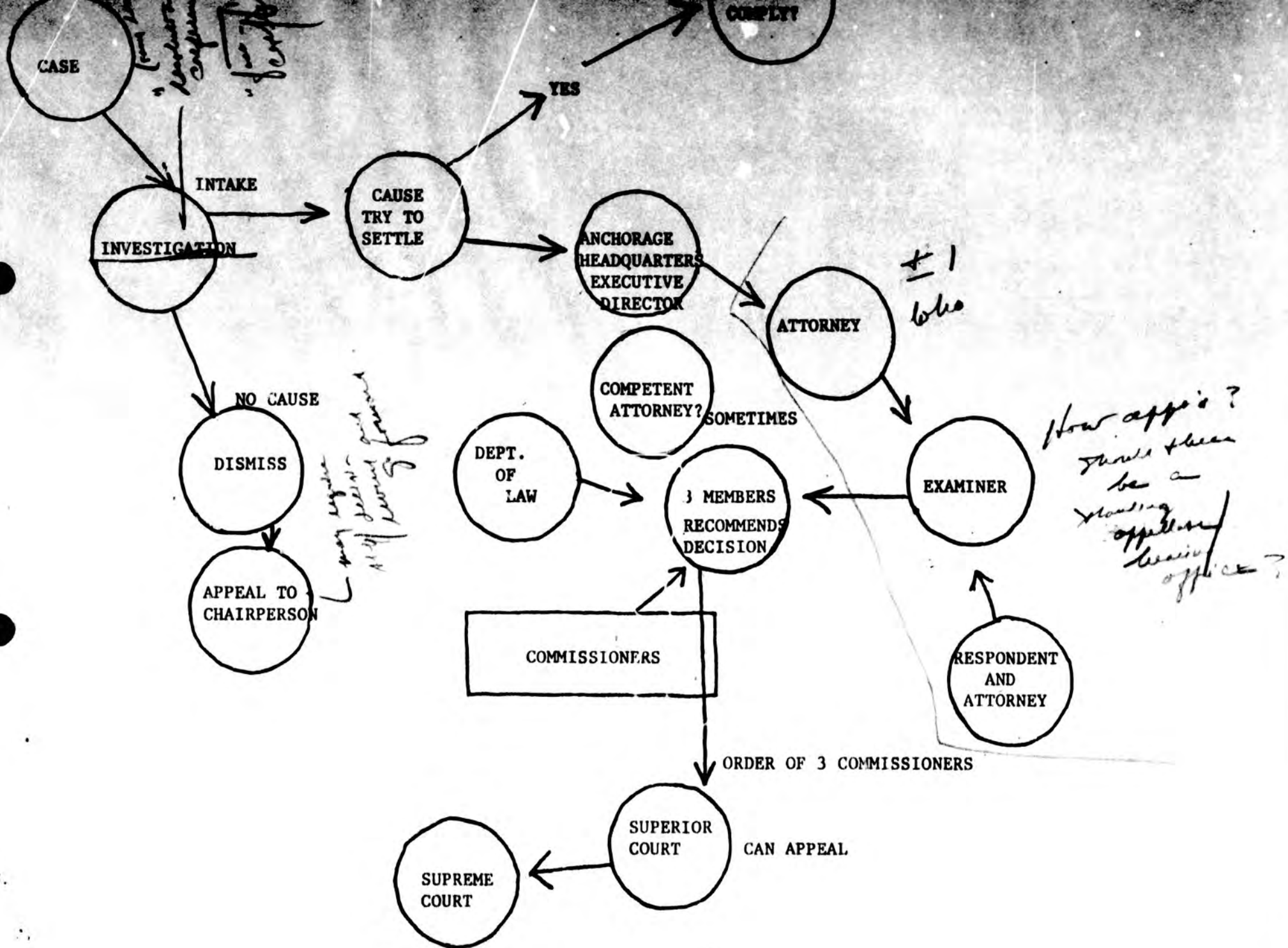
- * Bills to be paid

- * Personnel actions

- * Submit budget

OFFICE OF THE GOVERNOR

STATE HUMAN RIGHTS COMMISSION
Executive Director
and
Staff



Chapter 80. State Commission for Human Rights.

Article

1. Creation and Organization of Commission (§§ 18.80.010 — 18.80.075)
2. Commission Investigation and Hearing (§§ 18.80.100 — 18.80.145)
3. Commission Reports and Publications (§§ 18.80.150 — 18.80.160)
4. Discriminatory Practices Prohibited (§§ 18.80.200 — 18.80.290)
5. General Provisions (§ 18.80.300)

Article 1. Creation and Organization of Commission.

Section

10. Creation
20. Composition and appointment
30. Chairman of commission
40. Commission meetings

Section

50. Regulations
60. Powers and duties of the commission
70. Compensation
75. Legal counsel

Sec. 18.80.010. Creation. There is created in the office of the governor a State Commission for Human Rights. (§ 1 ch 15 SLA 1963)

Sec. 18.80.020. Composition and appointment. The commission consists of seven commissioners, appointed by the governor for staggered terms of five years, and confirmed by the legislature. (§ 1 ch 15 SLA 1963; am § 1 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "seven" for "five."

Sec. 18.80.030. Chairman of commission. The commission shall elect one of its members as chairman. (§ 1 ch 15 SLA 1963)

Sec. 18.80.040. Commission meetings. The commission shall hold a regular annual meeting and shall hold special meetings as necessitated by § 120 of this chapter. (§ 1 ch 15 SLA 1963)

Sec. 18.80.050. Regulations. The commission shall adopt procedural and substantive regulations necessary to implement this chapter. (§ 1 ch 15 SLA 1963)

Sec. 18.80.060. Powers and duties of the commission. (a) In addition to the other powers and duties prescribed by this chapter the commission shall

- (1) appoint an executive director approved by the governor;
- (2) hire other administrative staff as may be necessary to the commission's function;
- (3) exercise general supervision and direct the activities of the executive director and other administrative staff;
- (4) accept complaints under § 100 of this chapter;
- (5) study the problems of discrimination in all or specific fields of human relationships, and foster through community effort or goodwill, cooperation and conciliation among the groups and elements of the population of the state, and publish results of investigations and research as in its judgment will tend to eliminate discrimination because of race, religion, color, national ancestry, physical handicap, age or sex.

(b) In addition to the other powers and duties prescribed by this chapter the commission may

(1) delegate to the executive director all powers and duties given it by this chapter except the duties and powers given it by §§ 120 and 130 of this chapter;

(2) call upon the departments and agencies of the state, with the approval of the governor, for cooperation and assistance in carrying out this chapter;

(3) hold hearings under § 120 of this chapter, subpoena witnesses, take the testimony of any person under oath, administer oaths, and in connection therewith, to require the production for examination of books or papers relating to a matter under investigation or in question before the commission. (§ 1 ch 15 SLA 1963; am § 1 ch 117 SLA 1965; am § 1 ch 119 SLA 1969)

Effect of amendments. — The 1965 amendment rewrote this section.

The 1969 amendment added "physical handicap, age or sex" at the end of paragraph (5) in subsection (a).

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSB 133 [Judiciary] am H), see 1969 House Journal, p. 869.

Sec. 18.80.070. Compensation. The members of the commission are authorized per diem and travel allowances allowable to members of other boards and commissions. (§ 1 ch 15 SLA 1963)

Sec. 18.80.075. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party.

(b) The commission may employ temporary legal counsel for proceedings before the commission and court actions involving the commission in which proceedings or actions the attorney general is representing another agency of the state government. (§ 2 ch 42 SLA 1972)

Article 2. Commission Investigation and Hearing.

Section

- 100. Complaint
- 105. Temporary restraining order
- 110. Investigation and conciliation
- 120. Hearing
- 130. Order

Section

- 135. Judicial review and enforcement
- 140. Effect of compliance with order
- 145. Intervention by State Commission for Human Rights

Sec. 18.80.100. Complaint. A person who believes he is aggrieved by any discriminatory conduct prohibited by this chapter may sign and file with the commission a written, verified complaint stating the name and address of the person alleged to have engaged in discriminatory conduct, and the particulars of the discrimination. The executive director may file a complaint in like manner when an alleged

discrimination comes to his attention. (§ 1 ch 15 SLA 1963; am § 2 ch 117 SLA 1965)

Effect of amendment. — The 1965 amendment substituted "prohibited by this chapter" for "prohibited by AS 11.60.230, 11.60.240, 23.10.155, 23.10.190 or 23.10.255."

Sec. 18.80.105. Temporary restraining order. At any time after a complaint is filed under § 100 of this chapter, alleging an unlawful discriminatory practice, the commission may file a petition in the superior court in the judicial district in which the subject of the complaint occurs, or in the judicial district in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper; however, no relief or order extending beyond 10 days may be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices. (§ 2 ch 119 SLA 1969)

Legislative committee report. — For (Judiciary) am H), see 1969 House Journal, report on ch. 119, SLA 1969 (HCSSB 133 p. 869.

Sec. 18.80.110. Investigation and conciliation. The executive director or a member of the commission's staff designated by the executive director shall informally investigate the matters set out in a filed complaint, promptly and impartially. If the investigator determines that the allegations are supported by substantial evidence, he shall immediately try to eliminate the discrimination complained of, by conference, conciliation, and persuasion. (§ 1 ch 15 SLA 1963)

Sec. 18.80.120. Hearing. If the informal efforts to eliminate the alleged discrimination are unsuccessful, the executive director shall inform the commission of the failure, and the commission shall serve written notice together with a copy of the complaint, requiring the person, employer, labor organization or employment agency, charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission at the place where the unlawful conduct is alleged to have occurred unless the person, employer, labor organization or employment agency requests a change of venue for good cause shown. The case in support of the complaint shall be presented before the commission by the executive director or his designee who shall be a bona fide resident of the state. The person charged in the complaint may file a written answer to the complaint and may appear at the hearing in person or otherwise, with or without counsel, and submit testimony. The

executive director has the power reasonably and fairly to amend the complaint, and the person charged has the power reasonably and fairly to amend his answer. The commission is not bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and shall be transcribed at the request of any party to the hearing. (§ 1 ch 15 SLA 1963; am § 3 ch 117 SLA 1965; am § 3 ch 42 SLA 1972)

Effect of amendments. — The 1965 amendment substituted "together with a copy of the complaint, requiring the person, employer, labor organization or employment agency" for "requiring the person" in the first sentence, inserted the second sentence, added "or his designee

who shall be a bona fide resident of the state" at the end of the third sentence, and added the fourth sentence.

The 1972 amendment deleted a former fourth sentence and inserted "shall" preceding "be transcribed" in the last sentence.

Sec. 18.80.130. Order. (a) At the completion of the hearing, if the commission finds that a person against whom a complaint was filed has engaged in the discriminatory conduct alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order shall include findings of fact, and may prescribe conditions on the accused's future conduct relevant to the type of discrimination. In a case involving discrimination in

(1) employment, the commission may order the hiring, reinstatement or upgrading of an employee with or without back pay, restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program;

(2) housing, the commission may order the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of a like accommodation owned by the person against whom the complaint was filed if one is still available, or the sale, lease or rental of the next vacancy in a like accommodation, owned by the person against whom the complaint was filed.

(b) The order may require a report on the manner of compliance.

(c) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory conduct alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

(d) A copy of the order shall be filed in all cases with the attorney general of Alaska. (§ 1 ch 15 SLA 1963; am § 4 ch 117 SLA 1965)

Effect of amendment. — The 1965 amendment rewrote this section.

Sec. 18.80.135. Judicial review and enforcement. (a) A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560 — 44.62.570.

(b) The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the superior court in the

judicial district where the discrimination occurred. (§ 2 ch 117 SLA 1965)

Sec. 18.80.140. Continuing cause of action. (a) A civil action for discrimination in employment or in the conduct of business shall not be barred by the statute of limitations if the discrimination occurred on or after January 1, 1963. (15 SLA 1963)

Sec. 18.80.145. Rights. (a) A plaintiff shall have the right to be heard for Human Rights Commission as a commission investigating defendant's conduct. If the plaintiff requests a hearing within 45 days of the filing of the complaint, the court shall order a hearing if the court finds that the court's decision is irreparable injury.

(b) If with the court's decision and reaches a decision of the court as to all issues resolved in the court's decision.

(c) When the court's decision and decision of the court proceed, after the purpose of the court's decision whether or not the court's decision proceeds.

(d) If the court's decision conduct a hearing in the jurisdiction of the court's decision. (§ 2 ch 117 SLA 1965)

Article 18

Section

150. Report to the governor
160. Informative

Sec. 18.80.150. Beginning of civil rights program. (a) The beginning of the civil rights program shall be recommended by the governor to the legislature. The legislative member of the

judicial district in which the unlawful conduct is alleged to have occurred. (§ 5 ch 117 SLA 1965)

Sec. 18.80.140. Effect of compliance with order. Immediate and continuing compliance with all the terms of a commission order is a bar to criminal prosecution for the particular instances of discriminatory conduct described in the accusation filed before the commission. (§ 1 ch 15 SLA 1963)

Sec. 18.80.145. Intervention by State Commission for Human Rights. (a) When an action is brought under AS 22.10.020(e), the plaintiff shall serve a copy of the complaint on the State Commission for Human Rights. Upon timely application, the commission may intervene as a party to the action as a matter of right. If the commission certifies in writing to the court that it is presently investigating or actively dealing with the act, practice or policy of the defendant giving rise to the cause of action, the court shall, at the request of the commission, defer proceedings for a period of not more than 45 days or such extended period as the court may allow; except that the court may enter an order or injunction if necessary to prevent irreparable injury to the plaintiff.

(b) If within the period allowed the commission conducts a hearing and reaches a decision under §§ 120 and 130 of this chapter, the decision of the commission is binding on the parties to the court action as to all issues resolved in the hearing but not as to any issues not resolved in the hearing.

(c) When proceedings in the superior court are deferred for a hearing and decision by the commission under this section, the plaintiff may proceed, after the decision of the commission, as an aggrieved party for the purpose of obtaining judicial review under § 135 of this chapter, whether or not he was a party to, or complainant in, the commission proceedings.

(d) If the commission does not intervene or file a certificate and conduct a hearing as provided in this section, the court has complete jurisdiction of the case, notwithstanding the provisions of § 280 of this chapter. (§ 2 ch 240 SLA 1970)

Article 3. Commission Reports and Publications.

Section

150. Report to the legislature

160. Informative publications

Sec. 18.80.150. Report to the legislature. The commission shall, at the beginning of each legislative session, report to the legislature on civil rights problems it has encountered in the preceding year, and may recommend legislative action. The commission shall file the report with the governor and the legislative council by December 31 of each year. The legislative council shall prepare a copy of the report for each member of the legislature. (§ 1 ch 15 SLA 1963)

Sec. 18.80.160. Informative publications. The commission may prepare and distribute pamphlets and press releases to inform the public of its constitutional and statutory civil rights. The commission shall submit proposed publications to the Department of Law for a review of legal accuracy. (§ 1 ch 15 SLA 1963)

Article 4. Discriminatory Practices Prohibited.

Section	Section
200. Purpose	rental of property or housing accommodations
210. Civil rights	250. Unlawful financing practice
215. Activities in aid of housing for minority groups	255. Unlawful practices by the state or its political subdivisions
220. Unlawful employment practices	260. Coercion
230. Unlawful practices in places of public accommodation	270. Penalty
240. Unlawful practices in the sale or	280. Acquittal bars other actions

Sec. 18.80.200. Purpose. (a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age or sex is a matter of public concern and that such discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in places of public accommodation, in housing accommodations and in the sale or lease of unimproved property because of race, religion, color, national origin, or, in the case of employment, because of sex or age. (§ 6 ch 117 SLA 1965)

Sec. 18.80.210. Civil rights. The opportunity to obtain employment, public accommodations, housing accommodations and property without discrimination because of sex, race, religion, color or national origin is a civil right. (§ 6 ch 117 SLA 1965; am § 4 ch 42 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "sex."

Sec. 18.80.215. Activities in aid of housing for minority groups. The activities of a nonprofit and noncommercial organization on a nonremunerative basis in aiding minority group members to obtain housing opportunities so as to further the purpose of this chapter are not considered a violation of AS 08.88.161. (§ 3 ch 119 SLA 1969)

Legislative committee report. — For [Judiciary] am H), see 1969 House Journal, report on ch. 119, SLA 1969 (HCSSB 133 p. 869.

Sec. 18.80.220. Unlawful employment practices. (a) It is unlawful for

(1) an employer to refuse employment to a person, or to bar him from

employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color or national origin, or because of his age, physical handicap or sex when the reasonable demands of the position do not require age, physical handicap or sex distinction;

(2) a labor organization, because of a person's sex, age, race, religion, color or national origin, to exclude or to expel him from its membership, or to discriminate in any way against one of its members or an employer or an employee;

(3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, age, race, creed, color or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has opposed any practices forbidden under §§ 200—280 of this chapter or because he has filed a complaint, testified or assisted in a proceeding under this chapter;

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business or type of work in the same locality; or

(6) a person to print, publish, broadcast or otherwise circulate a statement, inquiry or advertisement in connection with prospective employment which expresses directly, a limitation, specification or discrimination as to sex, age, race, religion, color or national origin, unless based upon a bona fide occupational qualification.

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public. (§ 6 ch 117 SLA 1965; am § 4 ch 119 SLA 1969; am § 1 ch 237 SLA 1970; am §§ 5, 6 ch 42 SLA 1972; am § 1 ch 119 SLA 1974)

Effect of amendments. — The 1969 amendment inserted "physical handicap or sex" in two places in paragraph (1).

The 1970 amendment added subsection (b).

The 1972 amendment inserted "sex" in paragraphs (2) and (3) of subsection (a).

The 1974 amendment added paragraph (6) of subsection (a).

Legislative committee report. — For report on ch. 119, SLA 1969 (HCSSB 133 [Judiciary] am H), see 1969 House Journal, p. 869).