

City of Chicago
COMMISSION ON HUMAN RELATIONS

ADJUDICATION DIVISION

2011 Activity
Concerning Discrimination Cases
filed under the
Chicago Human Rights Ordinance
and
Chicago Fair Housing Ordinance



Chicago Commission on Human Relations
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Adjudication of Discrimination Complaints

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

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

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

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

Adjudication on the Web

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

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

What is Discrimination?

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

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

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

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

Housing	Public Accommodations
Employment	Credit or Bonding Transactions

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

Filing a Discrimination Complaint

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

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

How Cases Proceed

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

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

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

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

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

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

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

Relief may include a fine for each violation, an order to take steps to eliminate discriminatory practices (injunctive relief), an award of damages to be paid to the complainant, and an order to pay the complainant's attorney fees. Final orders awarding or denying relief have the force of law, can be

appealed to the state court on a *certiorari* petition, and are enforceable by obtaining a state court judgment.

Summary of Filing and Adjudication Activity

The table below summarizes complaint filing and adjudication activity during 2011 in the categories of discrimination complaints accepted under the City's ordinances. The 2011 figures are compared to those for 2010.

Case Activity Summary	Housing 2011 / 2010		Employment 2011 / 2010		Public Accommodation 2011 / 2010		Credit 2011 / 2010		TOTAL 2011 / 2010	
COMPLAINTS FILED	73	52	94	123	99	121	1	3	267	299
Staff-Assisted	44	42	68	84	59	76	0	0	171	202
Self-Prepared	29	10	26	39	40	45	1	3	96	97
CASES FORWARDED TO HEARING STAGE	10	11	6	12	11	14			28	37
Substantial Evidence	10	11	6	12	12	14			27	37
Default (at investigation stage)	0	0	0	0	1	0			1	0
CASES CLOSED	57	51	96	114	105	115	0	2	258	282
Settled	13	15	18	24	24	36		1	55	76
Complainant Withdrew Case	15	9	15	25	19	24		1	49	59
Complainant Failed to Cooperate	3	1	6	13	6	6			15	20
Lack of Jurisdiction	2	2	9	0	6	2			17	4
No Substantial Evidence	21	23	45	45	44	42			110	110
Ruling After Hearing	3	1	3	7	6	5			12	13
REQUESTS FOR REVIEW after involuntary dismissal	6	6	6	6	6	11			18	23
Denied	4	5	6	5	6	9			16	19
Granted	2	1	0	1	0	2			2	4

Discrimination Bases Claimed in New Complaints

The percentage figures in the table below show the percentage of *complaints* filed in 2011 which contained a *claim* of discrimination on the basis named. A complaint may claim discrimination on more than one basis (e.g. sex and age) arising out of the facts alleged. Thus the number of claims usually exceeds the number of complaints.

PROTECTED CLASS	Housing	%	Employment	%	Public Accom.	%	Credit	%	Total Claims	%
Race	16	22%	39	41%	54	55%			109	41%
Color	3	4%	3	3%	12	12%			18	7%
National Origin	4	5%	9	10%	6	6%			19	7%
Ancestry	2	3%	5	5%	0				7	3%
Religion	2	3%	5	5%	3	3%			10	4%
Sex	7	10%	39	41%	14	14%			60	22%
Sexual Orientation	7	10%	12	13%	10	10%			29	11%
Gender Identity	1	1%	2	2%	5	5%			8	3%
Marital Status	3	4%	1	1%	2	2%			6	2%
Parental Status	2	3%	1	1%					3	1%
Age	4	5%	14	15%	5	5%			23	9%
Disability	16	22%	10	11%	26	26%			52	19%
Source of Income	38	52%					1	100%	39	15%
Military Discharge									0	
TOTAL COMPLAINTS	73		94		99		1		267	

Trends in Discrimination Claims

In total, 11% fewer complaints were filed in 2011 compared to 2010, returning to a level closer to the previous three years. While employment discrimination complaints were lower than usual, housing discrimination complaints increased in comparison to recent years. In 2011, 35% of new complaints concerned employment, 37% concerned public accommodations, 27% concerned housing, and less than 1% concerned a credit transaction.

Race remained the most frequently-named basis for complaints, found in 41% of those filed in 2011. Sex was the second most frequently-named basis, in 22% of complaints, followed by disability at 19%, source of income at 15% (almost entirely in the housing area), sexual orientation at 11%, age at 9%, and national origin and color at 7% each. All other protected categories were found in fewer than 5% of new complaints.

Although these proportions have not varied significantly in recent years, it appears that race and sex discrimination claims are declining somewhat in proportion to other claims, perhaps as other types of claims such as age and disability are more frequently pursued.

About half of new race discrimination claims, at 54, were in the public accommodations area, followed by employment at 39 and housing at 16. On the other hand, sex discrimination claims (which often involve sexual harassment or pregnancy) appeared most frequently in the employment area at 39, followed by 14 in public accommodations and 7 in housing. Sexual orientation discrimination claims were more evenly distributed across covered areas of activity—12 in employment, 10 in public accommodations, and 7 in housing.

Half of new disability discrimination claims were in the public accommodations area, at 26. These claims usually involve entrances and restrooms of retail businesses that are not wheelchair accessible. Next came the housing area at 16, followed by employment at 10. Disability discrimination claims in the housing and employment areas more often involve allegations of differential treatment rather than accessibility or failure to accommodate.

Source of income discrimination claims occur almost entirely in the housing area and most often involve refusal to rent to a Section 8 voucher holder. In 2011, the majority of new housing discrimination complaints (38 of 73) cited source of income as a basis. The only other source of income discrimination claim was made in the credit transactions area (and was the only claim in this area filed in 2011).

After source of income, race and disability were the most frequently alleged types of housing discrimination in 2011 complaints, at 16 claims for each.

In employment, of 94 new complaints, race and sex were the discrimination bases most frequently alleged, with each appearing in 41% or 39 of the new complaints. Next were age at 15%, sexual orientation at 13%, disability at 11%, and national origin at 10%. All other protected classifications were found in 5% or fewer of new employment discrimination complaints.

In public accommodations, race discrimination claims appeared in 55% of new complaints, followed by disability in 26%, sex in 14%, color in 12%, sexual orientation in 10%, national origin in 6%, and gender identity in 5%. All other protected classifications were found in 3% or fewer new public accommodation

discrimination complaints.

Evaluating Complaint Data

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

- Complaint-filing data does not measure the amount and types of discrimination actually occurring in Chicago, as there can be many reasons a victim of discrimination may not pursue a legal remedy.
- The volume and types of complaint filings also do not reliably measure actual discrimination, because at the time of filing the Commission has made no decisions about whether the facts as alleged in the complaint are true or whether the claims have legal merit. However, filing data can offer insight into what types of discrimination people believe they are experiencing as well as what types of claims people bring to the Commission on Human Relations.
- The Commission's filing data alone cannot measure the number of discrimination claims arising from conduct that took place in Chicago. Many types of claimed discrimination violate federal and state anti-discrimination laws as well as Chicago's ordinances. When there is concurrent jurisdiction, people can choose to file claims their under one or more of the available laws—either at administrative agencies set up to receive complaints or directly in a court, depending on the provisions of these laws.
- Federal, state, and local anti-discrimination laws can vary in their definitions and coverage of potential violations as well as their procedures for handling complaints. Individuals with discrimination claims have the opportunity to assess and choose which law and procedure is likely to be best for them. The Commission views Chicago's ordinances and enforcement mechanism as offering (1) some unique coverage not available under federal or state laws, and (2) an enforcement system that is Chicago-focused, highly accessible, and linked to other City government initiatives.
- A strength of local anti-discrimination ordinances has been the ability to fill gaps in state and federal laws and to take the lead in addressing additional types of discrimination. For example, in the Chicago area only Chicago's Fair Housing Ordinance prohibits source of income discrimination against holders of Section 8 Housing Choice Vouchers; this type of discrimination is not prohibited by the Cook County Human Rights Ordinance, the Illinois Human Rights Act, or the federal Fair Housing Act. Also, only the Chicago and Cook County ordinances cover all employers and housing providers regardless of size. Only the Chicago Human Rights Ordinance prohibits employment discrimination based on parental status. State and local definitions of disability remain more inclusive than the federal definition. Federal anti-discrimination laws still do not cover sexual orientation discrimination, an area in which Chicago was a leader when it enacted the present Human Rights and Fair Housing Ordinances. These are only a few examples of gaps filled by Chicago's ordinances.
- As an enforcement system that enables any member of the public to file a discrimination

complaint, the majority of complaints do not result in findings that an ordinance violation occurred. This is generally true for enforcement agencies and courts that allow members of the public to file complaints. If success from a complainant's viewpoint can be measured by achievement of a settlement or a finding of liability (with orders of relief), typically not over one-third of complaints filed at the Commission produce such results. In 2011, for example, 55 or 21% of closed cases were resolved by settlement between the parties (a lower-than-usual proportion compared to recent years), and 9 or 3% of closed cases were resolved with a finding of liability and remedies ordered after an administrative hearing (a fairly typical proportion). At the same time, 110 or 43% of case closings were based on a finding of no substantial evidence after investigation of the complaint. In another 64 or 25% of closings, the complainant either withdrew the complaint or failed to cooperate with the Commission's process, resulting in dismissal without a decision on the merits of the complaint and leaving it a matter of speculation whether the complainants in these cases may have achieved a satisfactory resolution of their disputes, decided to pursue their claims in another venue, or decided their claims were unlikely to succeed.

- Despite the number of complaints that may not “succeed,” the value of Chicago's enforcement structure is in making a fair, neutral complaint filing and adjudication process available to anyone who believes he or she has been subjected to discrimination in violation of Chicago's discrimination ordinances. Every properly-filed complaint which a complainant chooses to pursue will be investigated and ruled upon according to established procedures. Businesses and individuals accused of discrimination have the opportunity to present their defenses under the same neutral process. Although the Commission executes City policy which strongly opposes discrimination, it is careful to impose the powerful remedies available under Chicago's ordinances only when justified by the evidence and applicable law. At the same time, the Commission encourages utilization of its complaint filing and adjudication system, so that accusations of discrimination can be resolved fairly according to the law and discriminatory conduct can be appropriately remedied and deterred.

Substantial Evidence Findings

During 2011, 27 complaints advanced to the administrative hearing stage after a finding of substantial evidence that an ordinance violation had occurred. An additional complaint advanced to hearing after an order of default for failure to respond to the complaint, for a total of 28 complaints entering the hearing process. This represents 12% of 243 dispositions of cases at the investigation stage and 20% of the 137 full investigations completed with a formal decision as to whether there was substantial evidence. Another 106 cases were settled or dismissed for other reasons before a determination as to substantial evidence was reached.

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

The breakdown of completed full investigations by case type and result appears in the table below, with the 2010 figures presented for comparison:

Findings after Full Investigations	Housing 2011 / 2010		Employment 2011 / 2010		Public Accommodation 2011 / 2010		TOTAL 2011/2010	
Substantial Evidence	10	11	6	12	12	14	27	37
No Substantial Evidence	21	23	45	45	44	42	110	110
TOTAL COMPLETED FULL INVESTIGATIONS	31	34	51	57	56	56	137	147

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

Stages of Complaints	2005	2006	2007	2008	2009	2010	2011
Pending Complaints (at year-end)	737	514	356	284	259	256	240
In Investigation Stage	703	464	303	224	209	220	217
In Hearing Stage	34	50	53	60	50	36	23
New Complaints	357	220	272	247	259	299	267
Complaints Forwarded to Hearing	45	67	56	73	62	37	28

Timely Completion of Investigations

Entering 2011, only 26% of pending investigations were over a year old, reflecting sustained improvement in timely completion of investigations over a period of several years. In 2011 as in 2010, the Commission met its goal of completing at least half of investigations within 180 days of the filing of the complaint, increasing the percentage to 56% compared to 53% in 2010. The proportion completed within one year of filing rose slightly to 79% in 2011 compared to 78% in 2010.

By the end of 2011, average investigator caseload had risen to 36 cases. This was due primarily to the retirement of two investigators, one in January and one in June. The total number of pending investigations did not change significantly in the face of this reduced staffing: 2011 ended with 217 investigations pending compared to 220 at the end of 2010. These figures illustrate continued effort and progress to complete investigations in a timely manner.

The number of investigations completed declined somewhat in 2011; at 243 compared to 272 in 2010 and

273 and 2009. However, this 11% percent decline is lower than the 17% decline in investigator resources which occurred during 2011.

Settlement of Complaints

A substantial percentage of discrimination complaints close due to settlement between the parties. Settlement may occur either prior to completion of a full investigation or after a case has advanced to the hearing process. Complainants as a group obtain much more monetary and other relief through settlements than through Board rulings after administrative hearings. In 2011 a total of 55 or 21% of closed cases were resolved by settlement. This is a somewhat lower proportion compared to the prior six years (2005-2010) when settlements ranged from 27%-32% of closed cases.

Settlement is voluntary between the parties. When cases settle, the respondents do not admit liability and the Commission does not determine whether a violation actually occurred. The Commission is not a party to the settlement and does not require or advocate particular settlement terms. However, Commission staff, independent mediators, and hearing officers do encourage parties to try to settle their dispute and are prepared to facilitate the process. The Commission is authorized to order parties to participate in a confidential settlement conference conducted by one of its independent mediators. The Commission typically does this after a substantial evidence finding but before appointment of a hearing officer, if there appears to be settlement potential. In 2011, the Commission held 19 such settlement conferences. Individual settlement terms vary and, because the majority of settlements are concluded as private agreements between the parties, the Commission often does not know their terms including the monetary value to complainants. To encourage settlement in the future, the Commission does not announce the terms of particular settlements, although parties may choose to do so if they have not agreed to the contrary as part of the settlement terms.

Hearing Stage Activity

In 2011, the Commission completed the adjudication of 39 cases in the hearing process after substantial evidence findings or orders of default, while advancing 28 complaints from the investigation stage to the hearing stage over the year. Thus at the end of 2011, this docket consisted of 23 complaints compared to 36 at the end of 2010 and 50 at the end of 2009. Three of these 23 complaints were scheduled for a pre-hearing settlement conference with one of the Commission's independent mediators, and the remaining 20 complaints were either in the pre-hearing process or awaiting a final decision after an administrative hearing.

During 2011, the Commission held 46 scheduled proceedings in cases at the hearing stage, including 6 administrative hearings, 21 pre-hearing conferences, and 19 settlement conferences. These figures illustrate that a significant number of cases which advance to the hearing process either settle or are withdrawn or dismissed for other reasons, so an administrative hearing is not needed. Sixteen Board of Commissioners rulings were issued in 2011, adjudicating liability and relief after an administrative hearing.

Rulings After Administrative Hearings

In 2011, the Board of Commissioners issued 16 written rulings after public administrative hearings on discrimination complaints. The 2011 rulings are summarized below. The full text of each ruling is

available on the Commission's website: www.cityofchicago.org/humanrelations.

Fourteen of the 2011 rulings were in favor of complainants—nine finding liability plus five determining the amount of attorney fees after an earlier liability ruling. Two rulings were in favor of respondents, finding no liability and dismissing the case.

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

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

Employment Discrimination Rulings

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Jan. 19, 2011)
Age, National Origin, Sex Discrimination

The Board ordered payment of attorney fees of \$67,511 and costs of \$2,262.27. In 2010, the Board had ruled, after an order of default, that a Mexican-American kitchen employee had been harassed and discharged by the restaurant owner based on her age, sex, and national origin.

Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011)
Sex Discrimination (Sexual Harassment)

After an order of default, a convenience store cashier proved a *prima facie* case of sexual harassment where the store owner asked her to wear revealing clothing to attract male customers, inquired about her sex life, propositioned her, and pressed his private parts against her. In addition to a \$500 fine, the Board ordered payment of \$2,000 in emotional distress damages and \$4,000 in punitive damages.

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011)
Sex Discrimination (Pregnancy)

The Board found pregnancy-related sex discrimination where a bar owner forced a manager-bartender to take maternity leave before she was ready to do so. The Board rejected arguments that the employee was unable to perform her job and that the owner was acting out of concern for her health and safety. The Board ordered payment of back pay of \$1,600 for the period from the date of the forced leave to the birth of her child, plus \$4,800 in punitive damages, and imposed a fine of \$500.

Housing Discrimination Rulings

Pierce & Parker v. New Jerusalem Christian Development Corporation, CCHR No. 07-H-12/13 (Feb. 16, 2011)
Source of Income Discrimination

After an order of default, the Board found that a nonprofit housing developer receiving government support through the City of Chicago to build affordable housing discriminated against two low-income home purchasers

based on their source of income when it refused to complete their sales transactions because they would finance the purchases in part with another government subsidy through a different City-sponsored program. The developer refused for no apparent reason to sign riders to allow additional inspections of the units the complainants' were purchasing for compliance with the Housing Quality Standards of the U.S. Department of Housing and Urban Development, as required for the complainants to receive their subsidies. The Board ordered payment of emotional distress damages of \$20,000 to each complainant. The Board also ordered payment of punitive damages of \$10,000 to Ms. Parker, who was able to purchase another home using some of her available subsidies, and \$60,000 to Ms. Pierce, who due to the imminent expiration of her subsidy was unable to make any purchase or use any of her other arranged subsidies and still lives in rental housing. Finally, the respondent was ordered to pay fines of \$500 each for the two violations plus \$500 as a sanction for failure to comply with the Commission's procedural orders and regulations, for a total of \$1,500 in fines. In addition, the appropriate City of Chicago agencies were to be notified of the violations by this developer.

Montelongo v. Azarpira, CCHR No. 09-H-23 (Mar. 16, 2011)
Disability Discrimination

After an order of default, the Board found that the mother of a 15-year-old autistic child established a *prima facie* case that a property owner refused to rent an apartment to her after the child acted out during a conversation with the owner's representative at the end of the showing. The Board held that the child's unusual behavior in combination with the representative's reaction to it supported an inference that the representative perceived the child to have a disability. The case was remanded to the hearing officer for further recommendations as to the relief to be ordered.

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011)
Sex Discrimination (Sexual Harassment)

Resolving the credibility of conflicting testimony in the complainant's favor, the Board found that the complainant's landlord sexually harassed her by repeated unwelcome sexual propositions, often associated with her requests for repairs. The Board ordered \$5,000 in emotional distress damages and imposed a fine of \$500. The Board found no liability for race discrimination.

- *Gray v. Scott*, CCHR No. 06-H-10 (Nov. 16, 2011)
In the same case, the complainant was awarded \$13,368 in attorney fees and \$414.05 in costs.

Rankin v. 6954 N. Sheridan, Inc., DLG Management, et al., CCHR No. 08-H-49 (May 18, 2011)
Source of Income Discrimination

The Board awarded \$53,100 in attorney fees and \$124.30 in costs after reductions for charges found excessive. In 2010, the Board had found a building owner, management company, and rental agent liable for source of income discrimination for refusal to rent an apartment to a Section 8 voucher holder.

Rivera v. Pera et al., CCHR No. 08-H-13 (June 15, 2011)
Discrimination Claimed: Race, Ancestry

The Board found no race or ancestry discrimination where the property owners established that they refused to rent to Complainant not because he is Puerto Rican but because he opposed the late fee included in the proposed lease, which the respondents proved they had used in leases of both Hispanic and non-Hispanic tenants.

Gilbert and Gray v. 7355 South Shore Drive Condominium Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011)
Sexual Orientation Discrimination

The Board found that a condominium association president subjected a lesbian resident to a hostile housing environment through slurs and derogatory comments, and blocked the effort of another lesbian to purchase a unit, in each case because of the complainants' sexual orientation. The association president was fined \$100 per violation and the association \$500 per violation. The respondents were ordered to pay emotional distress damages of \$2,000 to the resident who was harassed. Based on a mixed-motive analysis, the Board awarded

\$100 in emotional distress damages to the potential purchaser.

Public Accommodation Discrimination Rulings

Robinson v. American Security Services, CCHR No. 08-P-69 (Jan. 19, 2011)

Discrimination Claimed: Gender Identity

The Board found no discrimination against a transvestite male who lives as a female, arising from allegations of harassment by security guards of a food store while shopping there. Based on credibility determinations by the hearing officer as to conflicting testimony at the administrative hearing, the Board found that the complainant had not proved the incidents occurred as alleged.

Scott & Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011)

Race and Religious Discrimination

The Board found that a nightclub discriminated against two African-American men by restricting their access based on policies barring admission of patrons wearing braids or hats. Mr. Scott was subjected to race discrimination when he arrived to attend a pre-arranged party but was denied entry because he wore a braided hairstyle. The Commission held that a no-braids policy under these circumstances is not race-neutral and not justifiable. The respondent was ordered to pay him emotional distress damages of \$1,500 plus \$15 for the loss of his non-refundable parking charge. Mr. Lyke was subjected to discrimination based on religion when, after being allowed entry wearing a braided hairstyle despite mention of the no-braids policy, he was later required to leave after refusing to remove his kufi head covering, even though club personnel were informed the kufi was worn as a Muslim religious practice. Respondent was ordered to pay Mr. Lyke \$1,000 in emotional distress damages. Respondent was also fined \$500 for each violation, for a total of \$1,000.

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011)

Disability Discrimination

After an order of default, the Board found that a wheelchair user proved a *prima facie* case of disability discrimination where he asked to use a restroom while patronizing the respondent restaurant but was unable to enter and close the restroom door. The Board ordered payment of emotional distress damages of \$500 and a fine of \$500, and as injunctive relief ordered the respondent either to make the restrooms accessible or to document any undue hardship and provide reasonable alternative restroom accommodations as feasible without undue hardship.

- *Cotten v. Top Notch Beefburger, Inc.*, CCHR No. 09-P-31 (June 15, 2011)

In the case described above, the Board awarded attorney fees of \$2,400 and costs of \$22.03.

Cotten v. Arnold's Restaurant, CCHR No. 08-P-24, (Feb. 16, 2011)

Disability Discrimination

The Board awarded attorney fees of \$1,435. In 2010, the Board had found disability discrimination where a restaurant's restrooms were not accessible to a wheelchair user who visited the restaurant and purchased food, due to narrow entrance doors.

Burford v. Complete Roofing and Tuck Pointing et al., CCHR No. 09-P-109 (Oct. 19, 2011)

Race Discrimination

After an order of default, an African-American mother and daughter proved a *prima facie* case of race discrimination where the owner of a roofing company delivered incomplete service when asked to give an estimate for roofing repairs, then subjected the complainants to racially derogatory insults when they complained. The Board ordered payment of a fine of \$500, plus \$1,000 in emotional distress damages and \$3,000 in punitive damages to each complainant.