



West Virginia Human Rights Commission

July 1, 2022 - June 30, 2023



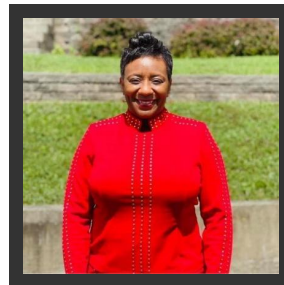
Tia Welch
Executive Director

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EXECUTIVE DIRECTOR'S MESSAGE

Tia L. Welch, MMIN



Greetings,

All my life I have called the great state of West Virginia my home. One of the greatest things about my home state is its people. The state seal says, “Montani Semper Liberi,” which means mountaineers are always free. Our work at the West Virginia Human Rights Commission is paramount as we uphold that saying through enforcing the West Virginia Human Rights Act, Fair Housing Act, and Pregnant Workers Fairness Act.

It is the right of every American to have employment free of discrimination and sexual harassment, affordable housing and homeownership opportunities, and reasonable accommodations associated with pregnancy, childbirth, or related medical conditions.

Our society continues to face the ills of hatred, bigotry, racism, and unequal pay, so our work must continue. We know that diversity, equity, and inclusion matters. We know that individuals and families want to live in a place where they have access and opportunity. We know a lot has been done, but there is more work to do.

I am pleased to say that my team and I are committed to the mission. This annual report highlights some of the many things we have done this year. If you would like to keep in contact with us on a regular basis, please check out our Facebook page or contact the office to get on our newsletter list.

Sincerely,

Tia L. Welch

Tia L. Welch, MMIN
Executive Director

MISSION STATEMENT

The West Virginia Human Rights Commission will encourage and endeavor to bring about respect, tolerance, and mutual understanding among all citizens of West Virginia regardless of their race, gender, religious persuasion, ethnicity, or disability. The Commission will administer and ensure adherence to, through education, investigation, mediation, and adjudication, the Human Rights Act which prohibits discrimination in employment, housing, and places of public accommodation based on race, religion, color, national origin, ancestry, sex, age (40 or above), blindness, or disability. In addition, discrimination in housing because of race, religion, color, national origin, ancestry, sex, blindness, disability, or familial status is forbidden.

CORE VALUES

Respect

Integrity

Fairness

Dedication

Professionalism

HUMAN RIGHTS COMMISSIONERS

- Rev. Dr. Darrell Cummings, Chairperson
- Timothy Hairston, Vice Chair
- Marie Redd
- Randy Morgan
- Wesley Dobbs

HOUSING UNIT

The West Virginia Human Rights Commission’s (HRC) housing unit focuses on investigating complaints of housing discrimination and conducting outreach and education on fair housing across the state. HRC is a Fair Housing Assistance Program (FHAP) with the U.S. Department of Housing and Urban Development (HUD). HRC is responsible for investigating a contractual number of cases and conducting education and outreach activities. The Commission may receive partnership funds when available for targeted education and outreach activities or testing activities that prioritize eliminating discrimination for those in protected classes and discriminatory appraisals and fair lending practices.

Fair Housing Month is recognized annually in April. Every year, HRC hosts a Fair Housing Conference. This year’s conference was held in-person on April 27, 2023, in Flatwoods. Speakers included Joshua Brown, Judge C. Joan Parker, Jason Bailey, Julie Alston, Marissa Gonzalez, Paul Backo, and William Beltran Martinez. Topics related to accessibility, federal enforcement mechanisms, service animals, and investigations. The conference was funded in conjunction with the U.S. Housing and Urban Development (HUD). The Commission was honored to have a proclamation for Fair Housing Month by Gov. Jim Justice.

The housing unit and Commission staff participate in several seminars, conferences, education and outreach activities to fulfill the mission and meet federal guidelines for funding and compliance.



Joseph Saunders, Lead Investigator (Housing Unit) and Executive Director Tia Welch.




WEST VIRGINIA
 Human Rights Commission
Fair Housing
Conference

Clockwise, left to right:

Photo 1: Joseph Saunders, Lead Investigator (Housing Unit)

Photo 2: Cheryl Vance, Office Assistant, Kimberly Johnson, Investigator, Joseph Saunders

Photo 3: Cammie Joan Parker, Administrative Law Judge, WV Human Rights Commission

Photo 4: Tia Welch, Executive Director

EMPLOYMENT UNIT

The West Virginia Human Rights Commission employment and public accommodations unit focuses on investigating complaints of discrimination in the workplace and places of public accommodation such as restaurants, public transportation, and entertainment venues open to the public.

HRC is a Fair Employment Practices Agencies (FEPA) with the U.S. Equal Employment Opportunity Commission (EEOC). According to the EEOC website, “The EEOC has contracts and ‘Worksharing Agreements’ with approximately 90 FEPAs nationwide that process more than 48,000 employment discrimination charges annually.” HRC is responsible for investigating a contractual number of cases and conducting education and outreach activities. HRC may receive partnership funds when available for targeted education and outreach activities or testing activities that prioritize eliminating discrimination for those in protected classes and discriminatory appraisals and fair lending practices.



The employment and public accommodations unit participates in several trainings with the EEOC for the latest legal updates, best practices, and investigative techniques to fulfill contract obligations.



Group photo of EEOC-FEPA/TERO Training Conference (Philadelphia Region) Baltimore, MD
July 2023

CIVIL RIGHTS DAY

The West Virginia Human Rights Commission (HRC), with the support of the Office of Governor Jim Justice, annually recognizes the importance of civil rights in the State of West Virginia. HRC hosted the Governor’s Civil Rights Award Ceremony, Advancing Civil Rights Through Advocacy, on Friday, August 25, 2023, at the West Virginia Culture Center in Charleston, West Virginia. This was an in-person event celebrating the 20th anniversary of these awards.

Executive Director Tia Welch said, “Congratulations to honorees past and present. What a privilege it is to continue this tradition of recognizing West Virginians who have paved the way for others through their advocacy of civil and human rights.”

“It is always an honor for me to have the opportunity to applaud and celebrate those who have contributed such amazing talents and effort in creating a better West Virginia for all of us. My congratulations go out to everyone who has made any contributions to upholding civil rights,” said Commissioner the Rev. Darrell Cummings.

2023 Civil Rights Honorees

For dedicated service to the people of West Virginia and their constant struggle for civil rights for all, HRC honors:

Leola Bateman	Carl Lee III
Owens Brown	Samuel Moore
Janine Bullock	Julie Palas
Michael Cary	Michael Pushkin
Darryl Clausell	James Rollins
Ralph Dunkin	William Thompson
Katonya Hart	Danielle Walker
Frederick Hightower	Beverly White
Sean Hornbuckle	Joseph William Jr.
Bunmi Kusimo	Karen Williams
	Robert Wilson



Tia Welch, HRC Executive Director



Dr. Sherri A. Young, D.O., MBA, FAAFP, Interim Cabinet Secretary, DHHR
Danielle Walker former Executive Director, WV AFL-CIO

2023 Honorees



CASE ACTIVITY for FY 2023

Inquiries and Complaint Forms:

HRC receives hundreds of inquiries from individuals and businesses with a concern about discrimination issues. Many inquiries are simple questions about the law or HRC services, and the agency's staff investigators or attorneys are available to quickly answer the inquiries. Individuals who are considering filing a complaint are provided with an appropriate Background Information Form to complete and return to begin the complaint and investigation process. HRC tracks the number of Background Information Forms mailed to individuals; the forms can also be obtained from the HRC website.

During FY2023, the Commission mailed **406** Background Information Forms:

- 331 were mailed to individuals after a telephone inquiry.
- Nine were mailed after an online inquiry.
- One requested a form via the U.S. Postal Service.
- 44 were submitted in person.

The 406 Background Information Forms mailed were divided as follows:

- 250 employment complaints (61%)
- 68 public accommodations complaints (17%)
- 88 housing complaints (22%)

Complaints Docketed:

After an individual completes and returns a Background Information Form, Commission investigators use the information provided to draft a concise legal complaint that must be approved and signed by the individual alleging discrimination and returned to the Commission to be docketed. HRC has seen an increase in cases sent from federal partners to investigate at the state level.

During FY 2203, the Commission docketed **283** legal complaints:

- 219 complaints alleged discrimination in employment (77%)
- 37 complaints alleged discrimination in housing (13%)
- 27 complaints alleged discrimination in public accommodations (10%)
- Three complaints alleged violation of the Pregnant Workers' Fairness Act (PWFA) (<1%)

- Note: Total reflected includes three complaints alleging violation of PWFA that are also employment complaints.

Cases Closed:

Most of the Commission's cases are closed after the Commission completes an investigation and makes a determination of "probable cause" or "no probable cause." However, some cases are closed when the complaining party decides to withdraw the complaint or when the parties reach an agreement to end the case. After a probable cause determination, a case is referred to the Commission's Office of Administrative Law Judge to be decided at a public hearing unless the parties reach a settlement. Some cases alleging housing discrimination are litigated before the state's circuit courts instead of the Commission's administrative law judge after a probable cause determination.

During FY 2023, the Commission closed **230** cases:

- 170 cases alleged discrimination in employment (74%)
- 25 cases alleged discrimination in housing (11%)
- 35 cases alleged discrimination in public accommodations (15%)
- Two employment cases alleged violation of the Pregnant Workers' Fairness Act

There has been an increase in overall cases filed and investigated by the West Virginia Human Rights Commission during this annual reporting period.

FEDERAL WORKSHARE AGREEMENTS FOR CASE PROCESSING

The West Virginia Human Rights Commission's partnerships with federal agencies provide invaluable support, training, and funding for its efforts to address discrimination in employment and housing. Because West Virginia's anti-discrimination laws remain substantially equivalent to federal anti-discrimination laws, the Commission is eligible to benefit from workshare agreements with the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity (FHEO).

Qualifying cases are "dual filed" with the West Virginia Human Rights Commission and the corresponding federal agency, thus preserving the complainant's rights to pursue litigation under federal or state law. When a West Virginia resident files a housing discrimination complaint with HUD's FHEO, the case is referred to the Commission for investigation. During FY 2023, the EEOC continued referring complaints filed by West Virginia workers to the Commission for investigation, increasing the Commission's active case load. Both EEOC and FHEO review the Commission's investigations to ensure that the work is diligent, thorough, and legally accurate. Each federal agency generally accepts the findings of the Commission's investigations as its own findings.

Additionally, as long as the West Virginia Human Rights Commission continues to effectively process cases of housing discrimination and improve its fair housing outreach/education efforts, the State is able to address some of its identified impediments to fair housing choice. West Virginia (like all jurisdictions that receive HUD funds) is required to eliminate all identified impediments to fair housing and to certify that the state government operates in a way to affirmatively further fair housing. Such certification is required for West Virginia to remain eligible to receive tens of millions of dollars in HUD funds for community development and affordable housing projects.

EEOC:

The fiscal year for the West Virginia Human Rights Commission's workshare agreement with EEOC runs from October 1, 2022, to September 30, 2023. During this contract year, the Commission met its goal of 150 cases. The Commission is approved by EEOC for payment of \$830 per case, and engagement funding of \$4,750 resulting in \$129,240 in federal funds to the Commission. This highlights the Commission's successful partnership with EEOC in investigations and joint innovation projects.

HUD/FHEO:

The West Virginia Human Rights Commission's workshare agreement with HUD/FHEO runs from July 1 through June 30 each year. The Commission completed and submitted 24 housing investigations during FY 2023; each was approved for payment of varying amounts for a total of \$68,000.

Pursuant to the workshare agreement, HUD also pays the Commission various amounts for cases that result in a probable cause determination, and the Commission received an additional \$1,400 for post cause supplement.

This highlights the Commission's increase in submitting case closures for payment and the numerous education and outreach initiatives for fair housing statewide.

PREDETERMINATION CONCILIATION

During every investigation, the parties to each case are invited and encouraged to participate in conciliation efforts to resolve the dispute before the investigation is completed and a determination is issued. The Commission's staff are available to facilitate talks but are not permitted to provide legal advice to either party.

- The Commission facilitated conciliation agreements in 11 cases during FY 2023; 10 of those agreements were in housing discrimination cases, and one was a public accommodation case.
- The total amount paid to complainants pursuant to the conciliation agreement for one housing case was \$5,000.
- The total amount paid to the complainant pursuant to the conciliation agreement in one public accommodation case was equal to \$1,200.

The Commission's staff endeavor to negotiate for relief in the public interest in each conciliation agreement. Relief in the public interest typically includes changes in the respondent's policies, training for managers and staff, and/or posting of employee or tenant rights that include the Commission's contact information.

ADMINISTRATIVE LAW JUDGE CASES

When the Commission’s confidential investigation results in a determination of probable cause, the case becomes public and is immediately assigned to the Commission’s Office of Administrative Law Judges for disposition. The Office of Administrative Law Judges promptly enters a Notice of Public Hearing setting a date for hearing and other pre-trial deadlines, including a deadline for mediation. Some complainants are represented by private counsel, but the ones who do not have counsel are assisted free of charge by the West Virginia Attorney General’s Civil Rights Division. The Office of Administrative Law Judges and the Attorney General’s Civil Rights Division have a record of encouraging the parties to resolve cases by settlement, and public hearings are rarely required as a result. The following is an all-inclusive list of the cases resolved before the Commission’s Office of Administrative Law Judges during FY 2023.

DISPOSITION LOG
July 1, 2022 - June 30, 2023

Total Settlement Amount	\$221, 825.00
Total Number of Right to Sue	17
Total Number of “other”	33
Grand Total	\$221, 825.00

JULY 2022		
Date	Case	Disposition
07/15/22	Nottingham v. Primary Aim Management d/b/a Wendy’s EADRREPS-54-21	Filed in court. HRC complaint dismissed.
AUGUST 2022		
Date	Case	Disposition
08/01/22	Paxton v .Mellinger HD-81-21	SETTLED: Respondent will post FHA notice and undergo anti-discrimination training with an emphasis on reasonable accommodation requests for emotional support animals.

08/2/22	Rakes v. Universal Protection Services EREP-156-20	Filed in court. HRC complaint dismissed.
08/12/22	Hepler v. Shiflett HS-04-21	SETTLED: \$15,000. Respondent will file a Satisfaction of Judgment of \$3,962 for Complainant's circuit court costs.
08/12/22	Markwood v. Stonerise Keyser ED-6-22	SETTLED: \$8,000 for Complainant's incidental damages and attorney's fees.
08/23/22	Thomas v. Wal-Mart EARREP-181-20	SETTLED: \$18,750, post HRA notice, and undergo anti-discrimination training.
08/31/22	Ranson v. Dark Knight, LLC HD-31-21	Filed in court. HRC complaint dismissed.
SEPTEMBER 2022		
Date	Case	Disposition
09/06/22	Thomas v. Twin Knobs LLP and Fairview LLC HD-179-20	SETTLED: \$5,575, post FHA notice, and undergo anti-discrimination training with an emphasis on reasonable accommodation requests for emotional support animals.
9/27/22	Govan v. Augmentation, Inc. ERREPS-83-21	Filed in court. HRC complaint dismissed.
9/27/22	Govan v. Brentwood Industries, Inc. ERREPS-84-21	Filed in court. HRC complaint dismissed.
09/27/22	Skupnick v. Donald Pine and Pine Properties HD-29-22	SETTLED: \$1,500, post FHA notice, and undergo anti-discrimination training with an emphasis on reasonable accommodation requests for emotional support animals.

OCTOBER 2022		
Date	Case	Disposition
10/6/22	Barbina v. Grafton Rentals, LLP <i>et al.</i> Docket No.: HD-97-22	SETTLED: \$4,500, post FHA notice, and undergo anti-discrimination training with an emphasis on reasonable accommodation requests for emotional support animals.
NOVEMBER 2022		
Date	Case	Disposition
11/04/22	Shelton v. Townley Engineering ER-159-19	Filed in court. HRC complaint dismissed.
11/04/22	Simmons v. TravelCenters of America ES-17-22	Filed in court. HRC complaint dismissed.
11/23/22	Ballard v. Putnam County/EMS EREP-23-22 and EA-77-21	Filed in court. HRC complaint dismissed.
11/23/22	Gibson v. Putnam County/EMS EREP-22-22 and EREP-76-21	Filed in court. HRC complaint dismissed.
11/23/22	Mayo v. Lexington Coal Company EAD-48-22	Filed in court. HRC complaint dismissed.
11/23/22	Woodford v. Putnam County/EMS EADS-78-21	Filed in court. HRC complaint dismissed.
DECEMBER 2022		
Date	Case	Disposition

12/05/22	Bias v. Boone County Board of Education PAR-93-20	SETTLED: \$15,000; designation of two employees to accept and process student complaints; train all students the harm and consequences of bullying and harassment.
12/12/22	Wood v. Putnam County/EMS EAREPS-118-22	Filed in court. HRC complaint dismissed.
JANUARY 2023		
Date	Case	Disposition
01/04/23	Bugaj v. West Liberty University EA-61-22	Filed in court. HRC complaint dismissed.
01/04/23	Shelton v. Consolidated Public Retirement Board EAR-33-20	SETTLED: \$5,500; anti-discrimination training provided for all managers, supervisors, and those responsible for hiring, and for designated employees, and posting notice of HRA compliance.
FEBRUARY 2023		
Date	Case	Disposition
02/21/23	Young v. Universal Protection Service, LLC d/b/a Allied Universal EA-34-22	Filed in court. HRC complaint dismissed.
MARCH 2023		
Date	Case	Disposition

03/07/23	Romain-Bounds v. Blue Ridge Community and Technical College ENORREP-53-20	SETTLED: \$25,000. Respondent will post HRA notice and undergo anti-discrimination training for all managers, supervisors, and those responsible for hiring, and for designated employees.
03/14/23	Wine v. The Ink Pit PAD-129-22	SETTLED: Respondent will post HRA notice and undergo anti-discrimination training with an emphasis on reasonable accommodation requests for emotional support animals.
03/14/23	Moore v. Roane County Schools PADR-154-17	SETTLED: \$18,500. Respondent will: post HRA notice; provide annual anti-discrimination training with an emphasis on autism to staff and students; hire a Behavioral Analyst; and provide “cool down” rooms to special education students.
03/28/23	Smith v. Guardian Elder Care at Wheeling, LLC ED-35-22	SETTLED: \$65,000 for Complainant’s damages and attorney’s fees.
APRIL 2023 No Cases Closed		
MAY 2023		
Date	Case	Disposition
05/12/23	Bailey v. U.S. Methanol, LLC ED-15/22	Filed in court. HRC complaint dismissed.
05/19/23	Coaxum v. Primary Aim LLC d/b/a Wendy’s. ER-78-22	SETTLED: \$3,000. Training for management and posting notice of compliance with the WV Human Rights Act.

05/24/23	Hélène Rainville v. Ox Paperboard, LLC ESNO-118-20	SETTLED: \$29,000 and posting of Notice of Rights.
JUNE 2023		
Date	Case	Disposition
06/02/23	Ashley Nicole Simmons v. WV DHHR BPH ER-13-22	SETTLED: \$7,500. Respondent will undergo training on anti-discrimination provisions of WV Human Rights Act and post notice of compliance with HRA.
06/02/23	Walter F. Chmiel v. West Virginia University EA-16-22	Filed in court. HRC complaint dismissed.
06/09/23	Austin Carroll McClure v. Cabell Co. Board of Education ED-38-22	Filed in court. HRC complaint dismissed.

NOTICE OF RIGHT TO SUE:	17
SETTLEMENTS:	
Employment:	26
Housing	6
Public Accommodation:	3
TOTAL:	35

CIRCUIT COURT

Pursuant to the West Virginia Fair Housing Act, any party to a housing discrimination case can elect to have the case litigated in the county where the alleged discrimination took place after the Commission makes a probable cause determination and issues a charge. When a party elects to proceed in circuit court, the Attorney General's Civil Rights Division files a civil complaint on behalf of the Commission and the complainant, and a circuit court judge presides over the case until trial or settlement. Two cases pending before circuit courts were resolved during fiscal year 2022:

Curnice Garner v. C&D Assets, LLC; Berkeley County Civil Action No. CC-02-2021-C-348 (no settlement value-closed 4/21/23).

Phyliss Wisenbaler v. Ronald Utt; Marion County Civil Action No. CC-24-2022-C-54 (settlement value of \$10,000-closed 06/09/23).

APPEALS

After the Commission's administrative law judge (ALJ) enters a final decision on the merits of a case, the parties may appeal the decision to the nine Commissioners who must review the ALJ's decision and promptly decide any issues raised in the appeal. The Commissioners' decision can then be appealed pursuant to the Administrative Procedures Act to the Kanawha County Circuit Court, the Intermediate Court of Appeals, and the West Virginia Supreme Court of Appeals. There was one case that was appealed for the Commissioners to decide during FY 2023, and that case was appealed from the Commission to the Kanawha County Circuit Court.

COMMUNITY OUTREACH AND PARTNERSHIPS

The West Virginia Human Rights Commission is committed to working with communities across the state to ensure human and civil rights protections under the law, facilitate training, and provide outreach and education. The Commission has participated in fairs, festivals, and expos in various communities.



First picture: Juneteenth Day at the State Capitol. Pictured left to right: Hazra Alladin, Administrative Services Assistant, and Kimberly Jones, Investigator.

Second picture: Issues & Eggs Legislative Breakfast. Pictured: Joseph Saunders, Mark Elswick, C. Joan Parker, Delegate Mike Pushkin, Tia Welch, Cheryl Vance, and Cameron McKinney.



U.S. Attorney North District Conference.
Pictured: Cameron McKinney, General Counsel, William J. Ihlenfeld, II, U.S. Attorney Northern District of WV and HRC Commissioner, Rev. Darrell Cummings.



Sherry Walker, Office Assistant III and Hazra Alladin attend the Deaf and Hard of Hearing Day at the Legislature.



Executive Director Tia Welch conducting outreach on the Pregnant Worker's Fairness Act at the Mercer County WIC Office.



Carissa Phillips, Investigator, Tia Welch, and Joseph Saunders at IAOHRA 2023.



Joseph Saunders, Tia Welch, Carissa Phillips, pictured with Marshall Moss, Executive Director, Huntington Human Relations.



National Fair Housing Training Academy 2023 Conference, Denver, CO.

Angela Phelps-White, Executive Director, Ohio Civil Rights Commission and Executive Director Tia L. Welch, West Virginia Human Rights Commission.