

# IDAHO

HUMAN RIGHTS  
COMMISSION

## FIND COMMON GROUND.



# Idaho Human Rights Commission

[Title 67, Chapter 59, Idaho Code.](#)

- The Idaho Human Rights Commission (IHRC) is an independent agency established by the Idaho legislature to help protect persons within the state from illegal discrimination. The IHRC also handles complaints under federal law deferred to them by the Equal Employment Opportunity Commission (EEOC).



- Protection
- Prevention
- Resolution

- To secure for all individuals within the state freedom from discrimination because of **race, color, religion, national origin, sex, age (40 and over) and disability.**
- To **inform and educate** employees, employers, property owners, residents, businesses, customers, students, and schools about civil rights laws.
- To investigate complaints by any persons claiming to be aggrieved by a discriminatory practice in of **employment, housing, education** and **public accommodations.**

# What we do

- IHRC takes **administrative complaints** which must be filed before a discrimination lawsuit can be filed. An administrative complaint may be drafted by an individual, by an attorney, or by a commission staff member based on information provided by an individual.
- IHRC can then make **informal resolutions** of complaints, **mediate** disputes among the parties, or **investigate** complaints to determine if there is cause or no cause for discrimination.
- IHRC may **advocate** for Idaho citizens who have been discriminated against.

# What We Address

- Employment
- Public Accommodation
- Housing
- Education
- In all of these, we look at discrimination on the basis of **Race, Color, National Origin, Religion, and Sex**. In employment, we can also look at **Age discrimination (over 40)**
- We do **Disability** in all but Education.



2000 inquires

485 cases filed

20-30 findings of cause for  
discrimination

## Leading Through Change – IHRC Updates & Key Trends

	FY 2014	FY2015	FY2016	<b>FY2017</b>
Total Administrative Cases Filed	435	443	403	<b>485</b>
Issues most frequently raised				
Discharge (actual or constructive)	64%	71%	70%	<b>73%</b>
Sexual harassment	15%	17%	13%	<b>12%</b>
Harassment/Intimidation	31%	26%	29%	<b>38%</b>
Failure to accommodate a disability	17%	24%	18%	<b>23%</b>
Terms & conditions of employment	17%	13%	17%	<b>26%</b>





## Leading Through Change – IHRC Updates & Key Trends

Intakes	FY2014	FY2015	FY2016	<b>FY2017</b>
Total number of IHRC contacts	2,188	1,886	1,761	<b>2,031</b>
Average per month	182	157	147	<b>169</b>
Total number of charges drafted	471	397	383	<b>599</b>
Average per month charges drafted	39.2	33	32	<b>50</b>
Percentage of drafts per month	21.5%	21%	21.7%	<b>29.4%</b>



Case Resolutions	FY2014	FY2015	FY2016	<b>FY2017</b>
Total Administrative Cases Resolved	460	494	463	<b>418</b>
No probable cause findings	74.8%	72.3%	75.2%	<b>71.3%</b>
Mediations, settlements, successful conciliations	17%	15.2%	15.8%	<b>22%</b>
Conciliation failures	.4%	1.4%	2.1%	<b>1.4%</b>
Non-jurisdictional; Notice of Right to Sue without findings; other	7.8%	11.1%	6.9%	<b>5.3%</b>



## Leading Through Change – IHRC Updates & Key Trends

			<u>Employment</u>	<u>Public Accom.</u>	<u>Housing</u>	<u>Education</u>
Total Claims Filed	<b>FY 2017</b>	<b>485</b>	<b>465 (96%)</b>	<b>8 (1.6%)</b>	<b>10 (2%)</b>	<b>2 (.04%)</b>
	FY2016	403	376 (93.3%)	19 (4.7%)	6 (1.5%)	2 (.5%)
	FY2015	443	414 (93%)	14 (3%)	13 (3%)	2 (.5%)
	FY2014	435	407 (93.6%)	20 (4.6%)	7 (1.6%)	1 (.2%)



## Leading Through Change – IHRC Updates & Key Trends

Disability	<b>FY2017</b>	<b>241 (50%)</b>	<b>Harassment</b> <b>62 (26%)</b>	<b>Failure to Hire</b> <b>20 (8%)</b>	<b>Discharge</b> <b>158 (66%)</b>	<b>Accommodation</b> <b>111 (46%)</b>	
	FY2016	171 (42%)	41 (24%)	11 (6%)	135 (79%)	73 (43%)	
	FY2015	187 (42%)		6 (3%)	161 (86%)	96 (51%)	
	FY2014	185 (42%)			130 (70%)	73 (39%)	
Sex	<b>FY2017</b>	<b>171 (36%)</b>	<b>Female</b> <b>107 (63%)</b>	<b>Pregnancy</b> <b>21 (12%)</b>	<b>Male</b> <b>35 (20%)</b>	<b>Sexual Orientation</b> <b>6 (4%)</b>	<b>Gender Identity</b> <b>2 (1%)</b>
	FY2016	139 (35%)	96 (69%)	15 (11%)	23 (17%)	2 (1%)	3 (2%)
	FY2015	146 (33%)	90 (62%)	26 (18%)	24 (16%)	4 (2%)	2 (1%)
	FY2014	156 (35%)	100 (64%)	14 (9%)	35 (22%)	5 (3%)	2 (1%)
Retaliation (all bases)	<b>FY2017</b>	<b>166 (34%)</b>					
	FY2016	107 (27%)					
	FY2015	135 (30%)					
	FY2014	126 (29%)					



Age (40+)	<b>FY2017</b>	<b>102 (21%)</b>
	FY2016	69 (17%)
	FY2015	74 (17%)
	FY2014	78 (18%)
National Origin	<b>FY2017</b>	<b>50 (10%)</b>
	FY2016	38 (9%)
	FY2015	46 (10%)
	FY2014	47 (11%)
Race	<b>FY 2017</b>	<b>43 (9%)</b>
	FY2016	24 (6%)
	FY2015	33 (7%)
	FY2014	22 (5%)
Religion	<b>FY 2017</b>	<b>32 (7%)</b>
	FY2016	25 (6%)
	FY2015	17 (4%)
	FY2014	19 (4%)

## Leading Through Change – Legal Updates & Trends: Sex & Sexual Harassment

Hussain v. Federal Express Corp., 657 F. App'x 591 (7<sup>th</sup> Cir. 2016)

- Plaintiff not selected for senior management position
- Criticized as “overly aggressive,” too emotional, using inappropriate facial expressions
- Unfounded criticism; reluctance of company to promote women
- Given reason was pretextual

## Leading Through Change – Legal Updates & Trends: Sex & Sexual Harassment

Quigg v. Thomas Cty. Sch. Dist., 814 F.3d 1227 (11<sup>th</sup> Cir. 2016)

- Plaintiff, a superintendent, alleged gender-based discrimination and retaliation by refusal to renew contract
- Court ruled that gender was a “motivating factor,” citing statements by school board, including:
  - “it is time to put a man in there”
  - Recommendation to hire a “tough hatchet man”
  - Suggestion that the plaintiff hire a male assistant sup. to ensure gender balance in school admin. positions

## Leading Through Change – Legal Updates & Trends: Sex & Sexual Harassment

Kincaid v. Anderson, No. 1:14CV00027, 2016 WL 1122095 (W.D. Va. Mar. 22, 2016)

- Plaintiff did not establish a prima facie case of gender discrimination, despite several isolated incidents of gender-based statements:
  - Supervisor said he would turn her into a “good southern woman”
  - He said she had worked in a “cat house” and asked how she could walk while wearing “hooker heels.”
- Court reflected on these “crass and misogynistic” comments, but noted the comments were unrelated to demotion and performance



## Leading Through Change – Legal Updates & Trends: Sex & Sexual Harassment

Fabian v. Hospital of Cent. Conn., 172 F. Supp. 3d 509 (D. Conn. Mar. 18, 2016)

From the EEOC Office of Legal Counsel:

“The plaintiff, an orthopedic surgeon, brought a Title VII sex discrimination claim alleging she was not hired because she disclosed her identity as a transgender woman who would begin work after transitioning to presenting as female. Analyzing Title VII’s legislative history and case law in extensive detail, the court held that Price Waterhouse abrogates the narrow view of Title VII’s plain language that had previously excluded sex discrimination claims by transgender individuals, citing supportive rulings by the Sixth, Ninth, and Eleventh Circuits, as well as the EEOC’s decision in Macy.”



## Leading Through Change – Legal Updates & Trends: Disability

Williams v. AT&T Mobility Servs. L.L.C., 847 F.3d 384 (6<sup>th</sup> Cir. 2017)

- Employer's failure to engage in interactive process is only actionable if employee can demonstrate qualification with a reasonable accom.
- Williams had extensive absences related to depression and anxiety attacks and could not demonstrate that any reasonable accom. would have made her qualified to perform her job as a customer service agent.



## Leading Through Change – Legal Updates & Trends: Disability

Searls v. Johns Hopkins Hosp, 2016 WL 245229 (D. Md. Jan. 21, 2016)

- Employer required to provide a full-time ASL interpreter for a deaf nurse
- Considered reasonable, despite the hospital’s argument of undue hardship; total operations considered, not just the nursing department or unit
  - \$120,000 a year for interpreter; 0.007% of overall budget
  - Overall budget (\$1.7 billion), Dept. of Medicine (\$88 million), and unit budget (\$3.4 million) were relevant to determining hardship



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