

STATE OF NEBRASKA
EQUAL OPPORTUNITY
COMMISSION



ANNUAL REPORT

Fiscal Year 2010/2011

www.neoc.ne.gov

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Public Education and Outreach

In this period, it has been a challenge for the NEOC staff to meet the public education and outreach commitments promised in the anti-discrimination statutes the state enforces. The NEOC met the challenges even during this period of reduced staff and resources. The achievements of staff are highlighted here. The requests of the public and businesses have endured. It made it necessary for NEOC to continue with promoting and presenting its technical assistance programs as an essential tool for minimizing the occurrence of discrimination and maximizing the mission of eliminating discrimination.

The NEOC continued to cover topics and issues prevalent in the charges filed. It was also an instrument for bringing to the state a nationwide interest in current topics which have reached a momentum of actionable issues under our current laws. This attention on nation-wide trends is part of the strategy for removing some fictional boundaries of the state as an isolated entity in matters of discrimination. We are working toward merging our issues of discrimination with the discrimination issues of our colleagues in other states who have similar missions. The NEOC is grateful to be able to continue to serve a role in providing guidance to the public and businesses.

The NEOC has covered many topics in this reporting period. Employment discrimination issues such as the Americans with Disabilities Amendments Act of 2008, and "Workplace Harassment," are popular topics. Presentations were also given on issues related to housing. Discriminatory application of the landlord tenant laws and occupancy standards as it relates to familial status discrimination. Another topic in housing situations was reasonable accommodations for persons with disabilities who are prescribed service and companion animals. There was a lot of discussion regarding the use of criminal background checks and credit report information during the hiring process and promotion decisions. The same issues are being used by housing providers for screening prospective tenants and renewing leases. The NEOC procedures was the traditional topic covered. It is important for the public and businesses to be aware of the NEOC investigatory procedures. The NEOC is an avenue for addressing charges/complaints of discrimination at an administrative level. There is never a cost to the persons or businesses requesting training or technical assistance information.

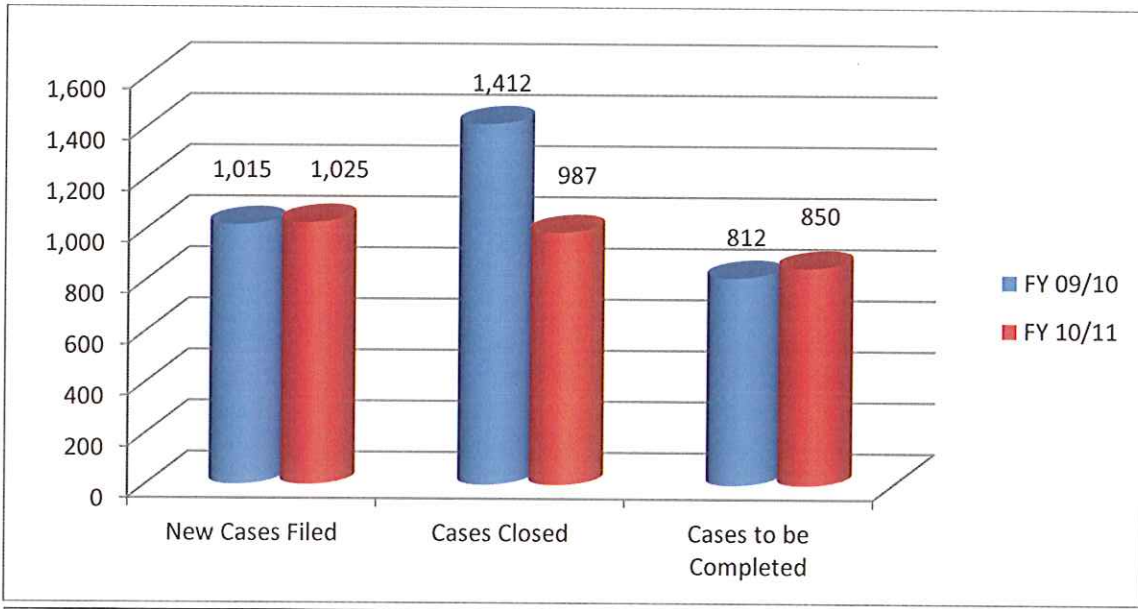
Presentations were made in numerous cities. Omaha and Lincoln were included in several instances; however, the education and outreach also included Fremont, Bellevue, Columbus, and Kearney. Chadron and Scottsbluff may be visited in the near future. The NEOC website was periodically updated to provide some fun activities and education for youth and adults.

Even where training was mandatory, pursuant to an agreement, the attendees articulated the benefits of the information provided. The training requirement may be included in a successful mediation, a pre-determination settlement agreement, or in a conciliation agreement where the agency made a determination of "Reasonable Cause."

The NEOC education and outreach is supported by our federal partners, the U.S. Department of Housing and Urban Development (HUD), and the U.S. Equal Employment Opportunity Commission (EEOC). Efforts were made with an eye to efficiency of time and resources. The support of the legislature is important to ensure the task of keeping businesses up-to-date on recent court cases and laws impacting business standards. Our future success depends in-part on businesses being informed of the legal practices related to employment, housing, and public accommodation discrimination.

TABLE 1: CASE SUMMARY

The Commission started using a new charge tracking system. Because of the new system, the Commission changed its procedure of assigning case numbers to charges that are filed. In the past, a charge number was assigned for each law cited in a charge. The Commission now assigns one number per charge filed.



Of the 987 cases **closed** in FY 10/11, 957 were Commission initial actions; 26 were actions on cases in the conciliation stage; 2 were decisions on cases in the public hearing stage; and 2 were pursuant to civil action (housing).

Of the 833 **cases to be completed** in FY 10/11, 832 cases are to be investigated; 9 cases are in conciliation; 1 case is in public hearing; and 8 housing cases are in civil action.

TABLE 2: CHARGE INTAKE

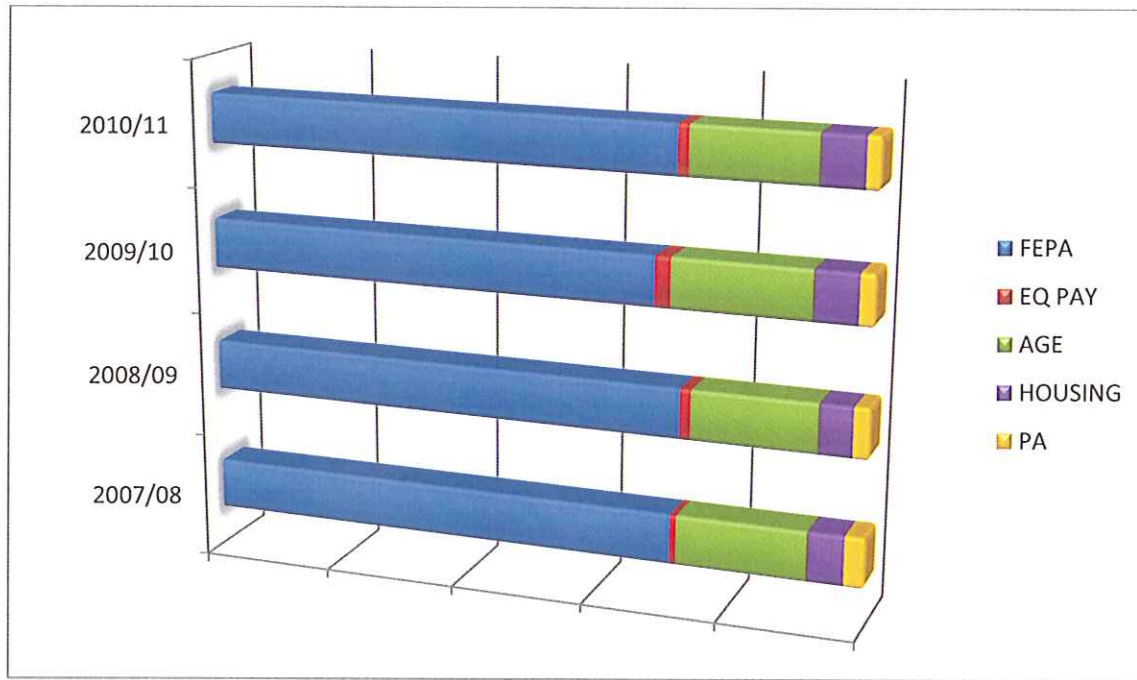
| | FY 08/09 | FY 09/10 | FY 10/11 |
|--------------|--------------|--------------|--------------|
| Omaha | 539 (39%) | 463 (46%) | 427 (42%) |
| Lincoln | 765 (56%) | 481 (47%) | 545 (53%) |
| Scottsbluff | 70 (5%) | 71 (7%) | 53 (5%) |
| TOTAL | 1,374 (100%) | 1,015 (100%) | 1,025 (100%) |

NOTES/HIGHLIGHTS

Overall total of 1,025 represents a 1% increase from FY 09/10 total intake.
 Omaha total of 427 represents an 8% decrease from FY 09/10 office intake
 Lincoln total of 545 represents a 13% increase from FY 09/10 office intake.
 Scottsbluff total of 53 represents a 25% decrease from FY 09/10 office intake.

**TABLE 3: CHARGES OF ALLEGED DISCRIMINATION
FILED DURING CURRENT AND PREVIOUS YEARS BY STATUTE**

2007/08 – 2010/11



FEPA -FAIR EMPLOYMENT PRACTICE ACT

EQ PAY -EQUAL PAY ACT OF NEBRASKA

AGE -NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

HOUSING -NEBRASKA FAIR HOUSING ACT

PA -NEBRASKA CIVIL RIGHTS ACT OF 1969 (PUBLIC ACCOMMODATIONS)

Because a person can file under multiple laws, this is not a total of cases received but how many charges are filed under the different laws.

OTHER CASE CHARACTERISTICS:

With our case tracking system, we are able to get an accurate count of the descriptive data for our case intake and production. Some of the data is summarized in the tables that follow:

**TABLE 4: BASIS OF CHARGES FILED BY STATUTE
FY 2010/11**

| BASIS | EMPLOYMENT | | | HOUSING/PUBLIC ACCOM. | | TOTALS |
|--------------------------------|------------|-----------|-----|-----------------------|------------------|--------|
| | FEPA | EQ PAY | AGE | HOUSING | PUBLIC ACCOM. | |
| RACE | 219 | 0 | 0 | 21 | 16 | 256 |
| COLOR | 185 | 0 | 0 | 9 | 16 | 210 |
| SEX | 246 | 19 | 0 | 10 | 3 | 278 |
| SEX-PREGNANCY | 42 | 0 | 0 | 0 | 0 | 42 |
| AGE (40-70) | 0 | 0 | 205 | 0 | 0 | 205 |
| RELIGION | 38 | 0 | 0 | 2 | 1 | 41 |
| NATIONAL ORIGIN/ ANCESTRY | 147 | 0 | 0 | 11 | 8 | 166 |
| DISABILITY | 260 | 0 | 0 | 43 | 0 | 303 |
| MARITAL STATUS | 6 | 0 | 0 | 0 | 0 | 6 |
| FAMILIAL STATUS | 0 | 0 | 0 | 7 | 0 | 7 |
| RETALIATION | 381 | 7 | 50 | 14 | 8 | 460 |
| RETALIATION (Whistleblower) | 66 | 0 | 0 | 0 | 0 | 66 |

The Public Accommodations Act and Housing Act do not provide coverage in the areas of Marital Status and Age Discrimination.

**TABLE 5: ISSUES IN EMPLOYMENT AND PUBLIC
ACCOMMODATIONS CHARGES FILED IN FY 2010/11**

| <u>ISSUE</u> | <u>NUMBER</u> |
|------------------------------------|---------------|
| Discharge | 1,167 |
| Terms and Conditions of Employment | 573 |
| Harassment | 544 |
| Discipline | 344 |
| Reasonable Accommodation | 179 |
| Constructive Discharge | 152 |
| Wages | 140 |
| Suspension | 129 |
| Failure to Hire | 123 |
| Assignment | 115 |
| Failure to Promote | 92 |
| Sexual Harassment | 87 |
| Demotion | 67 |
| Public Accommodation Issue | 52 |
| Failure to Train | 42 |
| References Unfavorable | 34 |
| Intimidation | 21 |
| Benefits | 19 |
| Other | 13 |
| Reinstatement | 11 |
| Layoff | 9 |
| Breach of Confidentiality | 9 |
| Benefits-Insurance | 6 |
| Referral | 6 |
| Union Representation | 5 |
| Benefits-Retirement/Pension | 3 |
| Advertising | 3 |
| Waivers | 2 |
| Testing | 1 |
| Exclusion | 1 |
| English Language Only Rule | 1 |
| Other Language/Accent Issue | 1 |

TABLE 6: ISSUES IN HOUSING CHARGES FILED
FY 2010/11

| <u>ISSUE</u> | <u>NUMBER</u> |
|--|----------------------|
| Terms, Conditions, Privileges Relating to Rental | 76 |
| Discriminatory Acts under Section 818 (coercion, etc.) | 20 |
| Failure to Make Reasonable Accommodations | 17 |
| Refusal to Rent | 7 |
| Discriminatory Terms, Conditions, Privileges, or Services and Facilities | 3 |
| Discrimination in Terms, Conditions, Privileges Relating to Sale | 3 |
| Other Discriminatory Acts | 2 |
| Refusal to Negotiate for Rental | 2 |
| Discriminatory Acts under Section 901 (Criminal) | 2 |
| Failure to Permit Reasonable Modification | 2 |
| Discrimination in Services and Facilities Relating to Rental | 1 |
| Discriminatory Financing | 1 |
| Failure to Provide an Accessible Route into and Thru the Covered Unit | 1 |

TABLE 7: COMPLAINANT CHARACTERISTICS
FY 2010/11

| <i>MALE</i> | | <i>FEMALE</i> | |
|----------------------------------|-----|----------------------------------|-----|
| Race | | Race | |
| Black/African American | 136 | Black/African American | 143 |
| Native Hawaiian/Pacific Islander | 0 | Native Hawaiian/Pacific Islander | 4 |
| American Indian/Alaska Native | 11 | American Indian/Alaska Native | 11 |
| Bi-Racial/Multi-Racial | 3 | Bi-Racial/Multi-Racial | 7 |
| Asian | 9 | Asian | 9 |
| White | 216 | White | 326 |
| Ethnicity | | Ethnicity | |
| Hispanic/Latino | 64 | Hispanic/Latino | 73 |
| Not Hispanic/Latino | 356 | Not Hispanic/Latino | 482 |
| National Origin | | National Origin | |
| North America | 326 | North America | 470 |
| Middle East | 16 | Middle East | 5 |
| Hispanic | 43 | Hispanic | 48 |
| Europe | 6 | Europe | 3 |
| Caribbean | 0 | Caribbean | 1 |
| Asia | 10 | Asia | 8 |
| Africa | 14 | Africa | 14 |
| Unable to obtain info | 12 | Unable to obtain info | 30 |

TABLE 8: TOP TEN COUNTIES FOR CHARGES FILED

| <u>COUNTY</u> | <u>FY 08/09</u> | <u>NUMBER</u> | <u>PERCENT</u> |
|-----------------------------|-----------------|---------------|----------------|
| 1. Douglas | | 594 | 43% |
| 2. Lancaster | | 237 | 18% |
| 3. Hall | | 197 | 15% |
| 4. Sarpy | | 64 | 5% |
| 5. Scotts Bluff | | 44 | 3% |
| 6. Dawson | | 18 | 1% |
| 7. Platte | | 17 | 1% |
| 8. Lincoln | | 17 | 1% |
| 9. Madison | | 15 | 1% |
| 10. Buffalo | | <u>13</u> | <u>1%</u> |
| TOTAL OF TOP TEN | | 1,216 | 89% |
| TOTAL OF ALL CHARGES | | 1,374 | 100% |

| <u>COUNTY</u> | <u>FY 09/10</u> | <u>NUMBER</u> | <u>PERCENT</u> |
|-----------------------------|-----------------|---------------|----------------|
| 1. Douglas | | 503 | 49% |
| 2. Lancaster | | 191 | 19% |
| 3. Scotts Bluff | | 41 | 4% |
| 4. Sarpy | | 37 | 4% |
| 5. Hall | | 26 | 3% |
| 6. Lincoln | | 22 | 2% |
| 7. Dawson | | 13 | 1% |
| 8. Platte | | 11 | 1% |
| 9. Buffalo | | 11 | 1% |
| 10. Dakota | | <u>10</u> | <u>1%</u> |
| TOTAL OF TOP TEN | | 865 | 85% |
| TOTAL OF ALL CHARGES | | 1,015 | 100% |

| <u>COUNTY</u> | <u>FY 10/11</u> | <u>NUMBER</u> | <u>PERCENT</u> |
|-----------------------------|-----------------|---------------|----------------|
| 1. Douglas | | 494 | 48% |
| 2. Lancaster | | 183 | 18% |
| 3. Sarpy | | 38 | 4% |
| 4. Scotts Bluff | | 34 | 3% |
| 5. Hall | | 31 | 3% |
| 6. Dodge | | 24 | 2% |
| 7. Lincoln | | 20 | 2% |
| 8. Buffalo | | 16 | 2% |
| 9. Adams | | 14 | 1% |
| 10. Madison | | <u>12</u> | <u>1%</u> |
| TOTAL OF TOP TEN | | 866 | 84% |
| TOTAL OF ALL CHARGES | | 1,026 | 100% |

TABLE 9: CHARGES NOT DOCKETED

In FY 10/11, the Commission conducted a total of 740 intake interviews, or screenings, which did not result in the docketing of a charge of discrimination.

FY 10/11

| <u>Reason for Non-Filing</u> | <u>Lincoln</u> | <u>Omaha</u> | <u>Scottsbluff</u> | <u>Totals</u> |
|--|-----------------------|---------------------|---------------------------|----------------------|
| 1. Respondent has too few employees | 11 | 33 | 3 | 47 |
| 2. Allegations outside the Statute of Limitations | 19 | 16 | 2 | 37 |
| 3. Complainant had no standing or basis to file | 185 | 150 | 27 | 362 |
| 4. Informed of right to file, but declined to file | 149 | 128 | 17 | 294 |
| TOTAL NON-DOCKETED | 364 (49%) | 327 (44%) | 49 (7%) | 740 (100%) |

TABLE 10: TECHNICAL ASSISTANCE TO THE PUBLIC

In addition to conducting screenings which led to no formal action by the Commission, the Commission staff also fielded 2,831 other inquiries from the public in FY 10/11. The inquiries received can be broken down as follows:

FY 10/11

| <u>Contact Type</u> | <u>Lincoln</u> | <u>Omaha</u> | <u>Scottsbluff</u> | <u>Totals</u> |
|--|-----------------------|---------------------|---------------------------|----------------------|
| 5. General Questions Answered | 345 | 452 | 38 | 835 |
| 6. Employer Inquires | 471 | 442 | 8 | 921 |
| 7. Information Sent | 54 | 8 | 6 | 68 |
| 8. Referred to an appropriate source of assistance | 108 | 99 | 29 | 236 |
| 9. Complainant Inquiry | 358 | 376 | 37 | 771 |
| TOTALS | 1,336 (47%) | 1,377 (49%) | 118 (4%) | 2,831 (100%) |
| TOTALS - ALL CONTACTS | 1,700 (48%) | 1,704 (48%) | 167 (4%) | 3,571 (100%) |

Along with the above stated data, there were 43,933 hits to the NEOC home page in FY 10/11. The web site is updated at least two times a month. The web site allows people to check upcoming Commission Meeting information, as well as educational information. Individuals also have the opportunity to learn about the Commission, the laws, and how to file a complaint.

TABLE 11 COMMISSION DETERMINATIONS

| | | FY | FY | FY |
|-----------------------------------|---------------------------------|--------------|--------------|--------------|
| | | 08/09 | 09/10 | 10/11 |
| Reasonable Cause | NEOC (moved to conciliation) | 61 | 50 | 39 |
| | Adopted (moved to conciliation) | 7 | 7 | 1 |
| No Reasonable Cause | NEOC | 867 | 981 | 628 |
| | Adopted | 167 | 118 | 78 |
| Pre-Determination Settlement | NEOC | 52 | 70 | 48 |
| | Adopted | 27 | 24 | 12 |
| Mediation | NEOC | 20 | 27 | 15 |
| | Adopted | 0 | 1 | 0 |
| Withdrawal With Settlement | NEOC | 9 | 18 | 13 |
| | Adopted | 5 | 5 | 0 |
| Withdrawal Without Settlement | NEOC | 14 | 20 | 13 |
| | Adopted | 11 | 5 | 4 |
| Failure to Locate | NEOC | 3 | 0 | 0 |
| | Adopted | 0 | 0 | 0 |
| Failure to Cooperate | NEOC | 4 | 2 | 4 |
| | Adopted | 1 | 0 | 0 |
| Lack of Jurisdiction | NEOC | 37 | 35 | 28 |
| | Adopted | 3 | 2 | 1 |
| Complainant Filing/Filed in Court | NEOC | 17 | 18 | 96 |
| | Adopted | 20 | 8 | 10 |
| Other | NEOC | 8 | 8 | 7 |
| | Adopted | 1 | 3 | 0 |

Table 11: COMMISSION DETERMINATIONS (continued)

| | | FY 08/09 | FY 09/10 | FY 10/11 | |
|-----------------------------------|--|---------------------|---------------------|---------------------|---|
| Conciliations | Successful Conciliations | 23 | 27 | 11 | |
| | Successful Conciliations – Adopted | 5 | 7 | 1 | |
| | Unsuccessful Conciliations - Dismissals | 16 | 11 | 8 | |
| | Unsuccessful Conciliations - Complainant Filing/Filed in Court | 12 | 11 | 6 | |
| | Other - Adopted | 2 | 0 | 0 | |
| | Unsuccessful Conciliations to Public Hearing or Civil Action | 7 | 12 | 8 | |
| | Public Hearings | For Complainant | 1 | 1 | 0 |
| | | For Respondent | 0 | 2 | 1 |
| Negotiated Settlement | | 2 | 1 | 1 | |
| Failure to Cooperate | | 0 | 0 | 0 | |
| Complainant Filing/Filed in Court | | 1 | 1 | 0 | |
| Other | | 0 | 0 | 0 | |
| Adopted | | 0 | 0 | 0 | |
| Civil Action (Housing) | Negotiated Settlements | 0 | 5 | 1 | |
| | Other | 2 | 1 | 0 | |
| | Dismissal | 0 | 0 | 1 | |

**TABLE 12: COMMISSION INITIAL DETERMINATIONS BY STATUTE
(CLOSED CASES)**

| FAIR EMPLOYMENT PRACTICE ACT | AGE | EQUAL PAY | HOUSING | PUBLIC ACCOMM. |
|---|------------|----------------------|----------------|---------------------------|
| 801 | 188 | 25 | 71 | 21 |

TABLE 13: LACK OF JURISDICTION BREAKDOWN

| REASON FOR LACK OF JURISDICTION | FY 08/09 |
|--|-----------------|
| Not Enough Employees | 16 |
| No Employer/Employee Relationship | 11 |
| Untimely Filed | 6 |
| Other | 3 |
| Respondent No Longer in Business | 2 |
| Respondent Not an Employer Under the Law | 1 |
| Respondent Does Not Offer Services to the General Public | 1 |
| TOTAL | 40 |

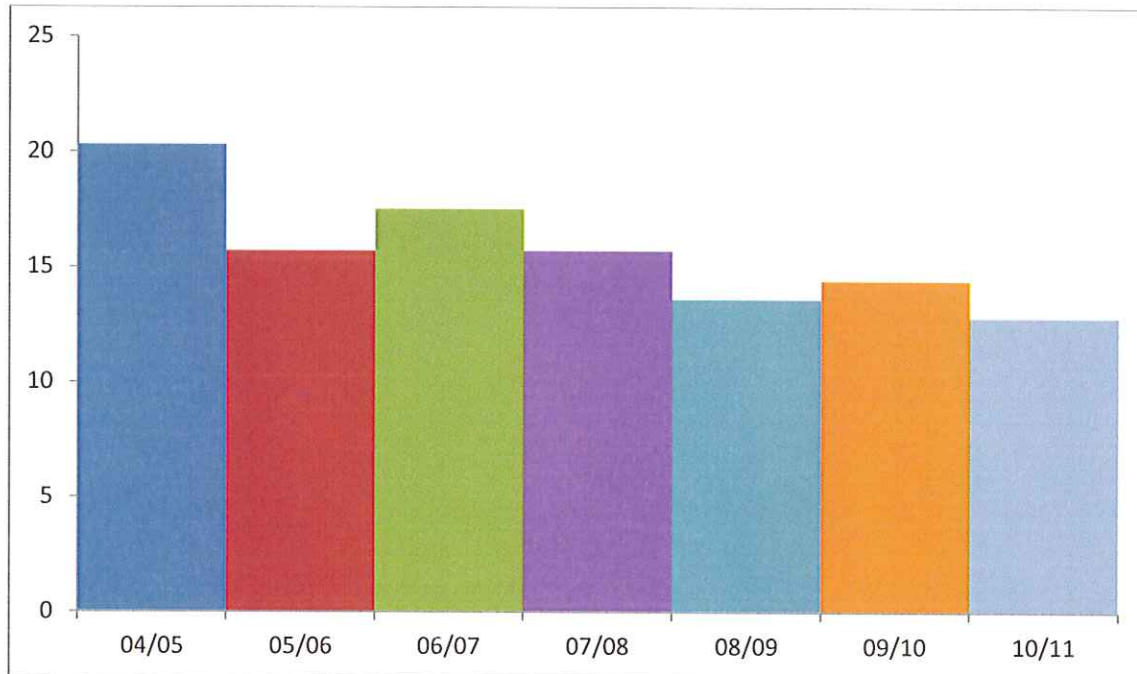
| REASON FOR LACK OF JURISDICTION | FY 09/10 |
|--|-----------------|
| Not Enough Employees | 20 |
| No Employer/Employee Relationship | 6 |
| No Service Denied | 4 |
| Untimely Filed | 2 |
| Religious Exemption | 2 |
| Wrong Respondent Named | 1 |
| Private Membership Club | 1 |
| Issues Don't Fall Under the Law | 1 |
| TOTAL | 37 |

| REASON FOR LACK OF JURISDICTION | FY 10/11 |
|--|-----------------|
| Not Enough Employees | 14 |
| Wrong Respondent Named | 5 |
| No Employer/Employee Relationship | 4 |
| Untimely Filed | 1 |
| No Service Denied | 1 |
| Respondent No Longer in Business | 1 |
| Complainant is Not an Aggrieved Person Under the Law | 1 |
| Other | 1 |
| TOTAL | 28 |

TABLE 14: COMPARATIVE CAUSE/SETTLEMENT FIGURES

FY 04/05 – 10/11

| Fiscal Year | Cause & Settlements Percent of Initial Determinations | Combined Number of Cases |
|--------------------|--|-------------------------------------|
| 04/05 | 20.3 | 283 |
| 05/06 | 15.7 | 212 |
| 06/07 | 17.5 | 204 |
| 07/08 | 15.7 | 201 |
| 08/09 | 13.6 | 181 |
| 09/10 | 14.4 | 202 |
| 10/11 | 12.8 | 128 |



**TABLE 15: ALTERNATIVE DISPUTE RESOLUTION
(ADR)
Employment and Public Accommodation Cases**

| | FY 07/08 | FY 08/09 | FY 09/10 | FY 10/11 |
|--|----------|----------|----------|----------|
| Sent to ADR | 68 | 60 | 57 | 53 |
| Successful Mediation | 26 | 20 | 27 | 15 |
| Successful Pre-Determination Settlement | 21 | 13 | 18 | 15 |
| Withdrawal with Settlement | 6 | 2 | 3 | 3 |
| Failed ADR (either Mediation or PDS) | 14 | 15 | 7 | 11 |
| No Longer Wanted to Pursue | 1 | 8 | 3 | 15 |
| Pending | 8 | 10 | 9 | 3 |

In 2004/2005 the NEOC developed the Alternative Dispute Resolution (ADR) program. The focus of ADR is to resolve pending employment and public accommodation cases prior to an investigation and determination being issued by the Commission. There are two options available in the ADR program: mediation and pre-determination settlement. **Mediation** typically involves the parties meeting face-to-face with a mediator to discuss resolution; whereas, **pre-determination settlement** involves discussion of resolution between the parties as relayed (usually via telephone) by the mediator.

Participation in the program is done on a voluntary basis. As the table indicates, when parties actively participate in the program there is a high rate of successful resolution. However, there are times when the parties indicate an interest in the ADR program, but after an initial discussion, determine they no longer want to participate in the process and request an investigation. These discussions are not considered unsuccessful as the parties never fully engaged in the process.

HIGHLIGHTS....

In addition to the ADR program, the NEOC attempts to resolve employment and public accommodation cases during an investigation prior to the NEOC issuing a determination. In FY 10/11 the NEOC resolved 18 cases during the investigative stage.

The NEOC also endeavors to resolve housing cases. Discussions regarding resolution are an ongoing process throughout the investigation for all housing cases. In FY 10/12 the NEOC settled 19 housing cases.

TABLE 16: TOTAL MONETARY RELIEF OBTAINED

| | 2005/06 | 2006/07 | 2007/08 | 2008/09 | 2009/10 | 2010/11 |
|-------------------------------|------------------|------------------|------------------|------------------|--------------------|------------------|
| Pre-Determination Settlements | \$120,856 | \$145,378 | \$248,087 | \$162,688 | \$ 432,873 | \$151,305 |
| Mediation | 128,201 | 108,550 | 242,935 | 154,925 | 302,692 | 126,363 |
| Withdrawals with Settlement* | 165,027 | 115,385 | 221,450 | 93,360 | 40,272 | 78,736 |
| Conciliation | 179,810 | 383,480 | 125,791 | 219,569 | 281,486 | 122,000 |
| Public Hearing | 41,000 | 202,997 | 73,946 | 78,745 | 0 | 23,502 |
| Litigation** | 23,500 | 0 | 0 | 0 | 2,400 | 0 |
| TOTAL | \$658,394 | \$955,790 | \$912,209 | \$709,287 | \$1,059,723 | \$501,906 |

* The benefits on some of the Commission's withdrawals with settlement are not known. The parties keep the terms of settlement confidential.

**These settlements were achieved by the Attorney General's Office on cases sent to their office for civil action/litigation.

**CASE COMPLETION SUMMARY TABLES
FY 06/07 – 10/11**

TABLE 17: AVERAGE CASE PROCESSING TIME

| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> | <u>FY 10/11</u> |
|-----------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Average Hours Worked on Case File | 10.2 | 8.7 | 8.5 | 8.9 | 10.8 |

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TABLE 18: AVERAGE DAYS PER INVESTIGATION

| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> | <u>FY 10/11</u> |
|--------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Average Days | 94.3 | 98.4 | 93.4 | 103.0 | 133.3 |

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TABLE 19: FROM FILING TO ASSIGNMENT AND DETERMINATION, AVERAGE DAYS -- CAUSE/NO CAUSE ONLY

| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> | <u>FY 10/11</u> |
|--|-----------------|-----------------|-----------------|-----------------|-----------------|
| Date Filed to Assignment of Investigator | 229 | 244 | 196 | 163 | 160 |
| Date Filed to Cause/No Cause Decision | 364 | 382 | 333 | 304 | 293 |

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TABLE 20: CAUSE CASES

| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> | <u>FY 10/11</u> |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|
| Out of Cause/No Cause Cases, This Percentage went Cause | 9% | 6% | 6% | 5% | 6% |

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TABLE 21: CONCILIATION TIME PER CASE

| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> | <u>FY 09/10</u> | <u>FY 10/11</u> |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|
| Average Conciliation Hours Worked on Case | 8 | 7 | 8 | 8 | 5 |
| Average Days in Conciliation | 92 | 79 | 72 | 79 | 59 |

TABLE 22: REASONABLE CAUSE CASES BY STATUTE

FY 10/11

| FEPA | AGE | EQUAL PAY | HOUSING | PUBLIC ACCOM |
|-------------|------------|----------------------|----------------|-------------------------|
| 30 | 4 | 0 | 7 | 1 |

TABLE 23: REASONABLE CAUSE CASES BY BASIS

FY 10/11

| BASIS | CASES | BASIS | CASES |
|-----------------|--------------|-----------------------------|--------------|
| Race | 6 | Disability | 14 |
| Color | 3 | Religion | 1 |
| Sex | 7 | Marital Status | 0 |
| Sex-Pregnancy | 1 | Retaliation | 15 |
| National Origin | 1 | Retaliation – Whistleblower | 5 |
| Age | 4 | Familial Status | 1 |

TABLE 24: REASONABLE CAUSE CASES BY ISSUE

FY 10/11

| ISSUES | CASES | ISSUES | CASES |
|--------------------------|--------------|-------------------------------------|--------------|
| Discharge | 16 | Suspension | 2 |
| Reasonable Accommodation | 8 | Breach of Confidentiality | 1 |
| Harassment | 6 | Promote | 1 |
| Conditions of Employment | 6 | Assignment | 1 |
| Hire | 3 | Reinstatement | 1 |
| Constructive Discharge | 3 | Failure to Provide Public Accommod. | 1 |
| Sexual Harassment | 2 | Seniority | 1 |
| Discipline | 2 | Terms/Condition of Occupancy | 3 |
| Wages | 2 | Section 818 (coercion, etc.) | 3 |
| Demotion | 2 | Section 901 (criminal) | 2 |

TABLE 25: CONCILIATION SUMMARY
FY 10/11

| | |
|--|------------------|
| Total Conciliations Attempted..... | 34 |
| Successful | 12* |
| Unsuccessful (Forwarded to Hearing) | 2 |
| Unsuccessful (Forwarded to Civil Action-Housing) | 6 |
| Administratively Closed | 14 |
| a. Unsuccessful - Dismissals..... | 8 |
| b. Complainant Filing in Court | 6 |
| Total Dollars | \$122,000 |

* 1-adopted EEOC's decision

TABLE 26: CONCILIATIONS

| FISCAL YEAR | 2006/07 | 2007/08 | 2008/09 | 2009/10 | 2010/11 |
|---|------------------|------------------|------------------|------------------|------------------|
| Cases to Conciliation (Reasonable Cause) | 93 | 52 | 68 | 57 | 40 |
| Cases Pending from Prior Fiscal Year | 41 | 15 | 11 | 14 | 3 |
| TOTAL CASES | 134 | 67 | 79 | 71 | 43 |
| Conciliations Attempted | 119 | 56 | 65 | 68 | 34 |
| Successful Conciliations | 29 | 15 | 28 | 34 | 12 |
| Unsuccessful Conciliations | 32 | 6 | 7 | 12 | 8 |
| Conciliations Administratively Closed | 58 | 35 | 30 | 22 | 14 |
| MONETARY RELIEF | \$383,480 | \$125,791 | \$219,569 | \$281,486 | \$122,000 |
| Conciliation Pending | 15 | 11 | 14 | 3 | 9 |

TABLE 27: SUCCESSFUL CONCILIATION DETAIL- FY 10/11

| DISCRIMINATORY ACT | RELIEF TO COMPLAINANT |
|--|--|
| Employment and Public Accommodations | |
| National Origin (public accommodation) | \$500; EEO training |
| Disability, Retaliation (terms and conditions, discharge, failure to hire) | \$30,000 back pay; \$30,000 compensatory damages |
| Disability (discipline, reasonable accommodation, discharge) | \$2,500, EEO training |
| Sex, Perceived Disability (terms and conditions) | \$5,000 back pay; removal of adverse material from personnel file |
| Disability (reasonable accommodation; termination) | \$24,000 back wages, EEO training; revision to ADA policy |
| Sex, Retaliation (sexual harassment, harassment) | Private settlement |
| Age, Perceived Disability (termination) | \$10,500 back pay; EEO training |
| Disability (breach of confidentiality) | \$1,000; \$500 attorney's fees; EEO training, revision to ADA policy |
| Race, Color (wages) | \$500 back pay; neutral reference letter; revision to policy |
| Disability (reasonable accommodation; termination) | \$8,750 back pay; \$8,750 compensatory damages |
| Housing | |
| Race, Retaliation (Section 901-Criminal) | \$1,000; housing, training; terms and conditions changed |
| | |

PUBLIC HEARINGS

In conformity with the Nebraska Fair Employment Practice Act, Section 48-1119, the Commission may take a case to Public Hearing if reasonable cause is found and attempts at conciliation are unsuccessful. The table below represents the Commission's activity after ordering Public Hearings in fiscal year 2010/2011, and the following tables give a brief composite of those hearings actually conducted during each respective fiscal year.

TABLE 28: PUBLIC HEARINGS

| Fiscal Year | 04/05 | 05/06 | 06/07 | 07/08 | 08/09 | 09/10 | 10/11 |
|-----------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Numbered Ordered | 24 | 10 | 30 | 4 | 6 | 3 | 2 |
| Number Held* | 3 | 5 | 21 | 5 | 1 | 3 | 1 |
| Number Carried Over | 13 | 23 | 7 | 6 | 1 | 3 | 1 |
| Orders Issued (Final) | 14 | 26 | 31 | 9 | 4 | 5 | 2 |
| Pending | 23 | 7 | 6 | 1 | 3 | 1 | 1 |

*A full and complete hearing was conducted.

TABLE 29: PUBLIC HEARING DISPOSITION
JULY 2010 - JUNE 2011

| | |
|-----------------------------------|----------|
| Total Final Orders Issued | 2 |
| Outcome of Final Orders: | |
| Violation found | 0 |
| No Violation Found | 1 |
| Settlement Prior to Hearing | 1 |
| Complainant Filing/Filed in Court | 0 |

TABLE 30: PUBLIC HEARING ORDERED; NOT HELD AS OF JUNE 30, 2011

| <u>Complainant</u> | <u>Respondent</u> | <u>Case No.</u> | <u>Hearing Examiner</u> |
|--------------------|------------------------|-----------------|-------------------------|
| Davis | Lincoln Public Schools | 41104 | Moriarty |

**TABLE 31: PUBLIC HEARING ORDERED; COMPLAINT NOT SIGNED BY
COMPLAINANT AS OF JUNE 30, 2011**

| <u>Complainant</u> | <u>Respondent</u> | <u>Case No.</u> | <u>Hearing Examiner</u> |
|--------------------|-------------------|-----------------|-------------------------|
| None | | | |

**TABLE 32: PUBLIC HEARING HELD; NO RECOMMENDED ORDER ISSUED BY
THE HEARING EXAMINER AS OF JUNE 30, 2011**

| <u>Complainant</u> | <u>Respondent</u> | <u>Case No.</u> | <u>Hearing Examiner</u> |
|--------------------|-------------------|-----------------|-------------------------|
| None | | | |

**TABLE 33: CIVIL ACTION DISPOSITION
JULY 2010 - JUNE 2011**

| | |
|-------------|---------|
| Settlement | 1 |
| Dismissal | 1 |
| <hr/> TOTAL | <hr/> 2 |

HEARING DISPOSITION SUMMARY
July 1, 2010 through June 30, 2011

NEB 1-09/10-7-40730-RD

**Hedges vs. NE/Motor Vehicles, Dept of
Disability (Failure to Accommodate and Termination)**

The Complainant alleged the Respondent would not accommodate her disability and relieved her of her duties and placed her in a retired status. The Commission found Reasonable Cause. The case was forwarded to public hearing. Prior to the public hearing the parties settled this case. The Hearing Officer recommended this matter be dismissed based on the fact the parties settled this case. The Commission accepted the Hearing Officer's recommendation and closed this case.

NEB 1-08/09-3-40216-R

**Murph vs. Silver Memories, Inc.
Race and Whistleblower (Harassment and Termination)**

The Complainant alleged discrimination based on her race and whistleblower retaliation. The Complainant alleged she was harassed by the Respondent owner due to her race and also alleged she was terminated after reporting wage violations to the Department of Labor. The Commission found Reasonable Cause. The case was forwarded to public hearing. The Hearing Officer found in favor of the Respondent. The Commission accepted the Hearing Officer's recommendation and closed this case.