DEPARTMENT OF HUMAN RIGHTS

July 31, 2020

Elizabeth Lincoln, Director
Minnesota Legislative Reference Library
645 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155-1050

Dear Director Lincoln:

The Minnesota Department of Human Rights (MDHR) submits its semi-annual report to the legislature (pursuant to 1997 Minnesota Session Law, Chapter 239, Article 1, Section 15), which summarizes investigation results and the resolution of complaints that were filed with the Department from January 1, 2020 to June 30, 2020.

Introduction:
MDHR is Minnesota's civil rights enforcement agency charged with neutrally investigating acts of discrimination in the areas of employment, housing, education, public accommodations, and public services. The Department's mission is to make Minnesota discrimination free, so that residents can lead lives full of dignity and joy. The work of the Department is essential in protecting the civil rights of Minnesotans, particularly as the state's communities grow older and the population becomes more racially diverse across the state.

This reporting period coincided with two significant developments for MDHR. The first was COVID-19, which required the Department to transition its entire staff from in-office work to virtual work. Although this impacted the way the Department was able to conduct certain aspects of its investigative work, like adjusting its intake process to align with new public health requirements, the dedicated team at MDHR was still able to close more discrimination cases than the previous reporting period.

This reporting period also coincided with the release of an audit from Minnesota's Office of the Legislative Auditor (OLA). Although the audit focused on the Department's investigatory work from 2016 - 2018 as its basis for technical improvements, the report appropriately commended the Department's new leadership for already identifying and implementing changes and creating efficient strategies to improve investigatory outcomes. Some examples include:

- investing in and increasing the effectiveness of the Department's mediation program;
- streamlining the investigatory process by creating determination templates;
- fundamentally changing the screening process to ensure that claims filed meet legal thresholds; and
- implementing a triage process to more effectively allocate investigation resources in order to deal with high case volumes.

Importantly, these changes have already brought better outcomes. In this reporting period, the Department settled its largest number of cases using mediation since 2011, and increased case closures by 16% from the previous reporting period.

This report will proceed to summarize the Department's investigatory results with respect to the following areas: alternative dispute resolution, case inventory, case closures, determinations, and new cases. The report demonstrates that the Department is working diligently to create a Minnesota where residents can lead full lives of dignity and joy, free from discrimination.

Alternative Dispute Resolution:
Over the past year and a half, the Department prioritized its use of alternative dispute resolution (ADR) – or mediation – as a tool to help Minnesotans resolve discrimination cases. After adding a full-time mediation director, the Department settled the largest number of cases using mediation since 2011.

By utilizing mediation, the Department helps move all parties forward in both a positive and time efficient way. The Department is committed to continue developing its mediation program as a tool parties can use to resolve discrimination early on, especially when there is still an on-going employment, housing, education, or service relationship. During this reporting period:

- 93 total cases (37% of total cases) were referred to mediation
- 32 cases were scheduled for mediation[1]
- 17 cases were resolved through mediation[2]
- 87 cases were returned from mediation to investigation[3]
- The average time a case was in mediation was 129 days[4]

Case Inventory:
MDHR currently has 14 investigators, each with an average caseload of 57 cases. Given this capacity, the Department's case inventory has remained consistent. In this reporting period, 801 cases were pending determination. Of these, 55% of cases are less than a year old. The inventory breaks down as follows:

- 150 cases are less than 90 days old
- 118 cases are between 91-180 days old
- 71 cases are between 181-270 days old
- 101 cases are between 271-365 days old
- 361 cases are over 365 days old

[1] A mediation is only scheduled when both parties agree to participate in the mediation process.
[2] Includes cases where mediation may have begun in the previous reporting period but was resolved during this reporting period.
[3] Includes cases that may have been referred to mediation in a previous reporting period but were subsequently returned to investigation during this reporting period.
[4] Covers from the day a case was referred to mediation up to when a mediation decision was finalized. This includes both when a mediation case was settled and when a case was not settled.

Case Closures:
The Department closed 270 cases during this reporting period, which is up 16% from the previous reporting period. Of the 270 closed cases:

- 177 cases (66%) resulted in a favorable determination for the respondent:
    - 142 cases (53%) were closed with a no probable cause determination
    - 35 cases (13%) were dismissed by the department due to lack of merit
- 63 cases (23%) resulted in a favorable determination for the charging party:
    - 42 cases (16%) were probable cause determinations
    - 21 cases (7%) were resolved prior to a full investigation and formal determination
- 17 cases (6%) were settled through mediation
- 13 cases (5%) were withdrawn by the charging party before a determination was reached

Determinations:
The average time for a case to reach a determination was 584 days. Note that as MDHR continues to triage and close its old cases, the effect will be a natural increase in the average time a case takes to reach a determination. In this reporting period:

- The average time to dismiss a case was 464 days (35 total cases)
- The average time to reach a probable cause or split determination was 586 days (6 total cases)
- The average time to reach a no probable cause determination was 611 days (153 total cases)

New Cases:
There were 253 new charges filed by Minnesotans during this reporting period (up 10% from the previous reporting period), of which 96% are still open and either going through mediation or the investigatory process. In this reporting period:

- Employment claims continue to be the most common area for charges brought to the Department. During the period, 247 employment related charges were filed, making up 57% of all charges filed. The most common types of employment related charges were:
    - Disability (26%)
    - Sex (19%)
    - Race (19%)
    - National Origin (12%)
    - Age (11%)
- The most common areas of discrimination other than employment were:
    - Public Services (7%)
    - Public Accommodations (6%)
- The most common basis of discrimination, regardless of area were:
    - Disability (25%)
    - Sex (22%)

- Race (20%)
- National origin (9%)
- Age (8%)

Conclusion:
The Minnesota Department of Human Rights ensures that the civil rights of Minnesotans are protected, as mandated by law. During this reporting period, and despite significant changes related to the COVID-19 pandemic, the Department achieved successful outcomes for Minnesotans. MDHR will need additional resources to be able to meaningfully reduce the number of cases and the age of cases, especially as the Department continues to see the number of intake cases increasing. MDHR is committed to continuing to implement process improvements and use its resources as creatively and flexibly as possible to improve the work of the Department so Minnesotans can live free from discrimination.

It is also important note that although the investigative work of the Department is critical to achieving its mission, it is also just one of MDHR's many responsibilities. The Department works to successfully pair its investigative duties, with its equity and inclusion enforcement monitoring, and external relations education, outreach, and policy work to help ensure that all Minnesotans have opportunities to live their lives full of joy and dignity.

Sincerely,

Rebecca Lucero
Commissioner

cc:

Senator Warren Limmer
Senator Ron Latz
Representative John Lesch
Representative Peggy Scott
Emily Lefholz, Office of Governor Tim Walz & Lt Governor Flanagan

Insert Area/Basis Chart

Minnesota Department of Human Rights

BASIS - AREA - FILING

File Date Range: January 1, 2020 to June 30, 2020

Total Charges Filed During Date Range: 253

	BASIS												
AREA	Age	Color	Creed	Disability	Familial Status	Marital Status	National Origin	Public Assistance Status	Race	Religion	Sex	Sexual Orientation	Percentage
Aiding, Abetting, or Obstructing (Employment)											1	1	0.5%
Business/Contract											4		0.9%
Credit		1	1										0.5%
Education		1					2		6	3	4		3.7%
Employment - Employer	27	13		65	3	5	29		46	8	47	4	57.4%
Employment - Employment Agency									1		1		0.5%
Employment - Union				1							1		0.5%
Housing/Real Property				6				1	2				2.1%
Public Accommodations		2		6			2		5	2	5	3	5.8%
Public Services		2		5			3		6	4	5	3	6.5%
Reprisal (Business/Contract)									1				0.2%
Reprisal (Education)													0.0%
Reprisal (Employment)	8			22	1		2		18	2	25	3	18.8%
Reprisal (Housing/Real Property)				2									0.5%
Reprisal (Public Accommodations)									2		1		0.7%
Reprisal (Public Services)		1		1					1	1		1	1.2%
Reprisal (Employment - Union)											1		0.2%
Percentage	8%	5%		25%	1%	1%	9%	0%	20%	5%	22%	3%	

Note: There can be more than one Area and/or Basis per charge filed, counts of Area and Basis combinations will not reconcile with number of charges filed.