

STEVE SISOLAK  
GOVERNOR



DON SODERBERG  
DIRECTOR

DENNIS A. PEREA  
DEPUTY DIRECTOR

OFFICE OF THE DIRECTOR

January 14, 2019

Governor Steve Sisolak  
101 North Carson Street  
Carson City, NV 89701

Dear Governor Sisolak,

Please see the attached biennial report concerning the activities for the Nevada Equal Rights Commission, per NRS 233.080, from the Department of Employment, Training and Rehabilitation; Nevada Equal Rights Commission.

Respectfully,

Don Soderberg, Director

cc: Dennis Perea, Deputy Director, DETR  
Kara Jenkins, Administrator, Nevada Equal Rights Commission

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## Nevada Equal Rights Commission

*Kara M. Jenkins, Administrator*

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<b>STATUTORY AUTHORITY:</b>	NRS 233, 613.405, 118.110, and 651.110
<b>TELEPHONE:</b>	(702) 486-7161 Las Vegas (775) 823-6690 Reno
<b>WEB SITE ADDRESS:</b>	<a href="http://www.nvdetr.org">www.nvdetr.org</a>

### ***PURPOSE:***

The mission of the Nevada Equal Rights Commission (the “Commission”) is to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain and hold employment and housing accommodations, and reasonably seek and be granted services in places of public accommodation without discrimination, distinction or restriction.

### ***JURISDICTION:***

The Commission investigates and attempts to settle discrimination in (3) three main areas:

- Employment
- Housing, and
- Places of Public Accommodation

NERC may conduct hearings related thereto.

### **Employment**

The Commission has jurisdiction to handle employment discrimination complaints relating to race, color, religion, sex, sexual orientation, age, disability, national origin/ancestry, genetic information and gender identity or expression, pregnancy and criminal background.

The Commission works in partnership with the federal Equal Employment Opportunity Commission (EEOC) regarding these cases of employment discrimination except for criminal background violations (state-only).

### **Housing and Places of Public Accommodation**

The Commission has jurisdiction to handle housing discrimination complaints relating to race, religion, color, national origin/ancestry, familial status, age, disability, sex, sexual orientation, and gender identity or expression. Additionally, the Commission has jurisdiction to handle public accommodation complaints relating to race, color, religion, national origin/ancestry, age, disability, sexual orientation, sex, and gender identity or expression.

### ***ORGANIZATIONAL STRUCTURE:***

As per NRS 233.030, the Nevada Equal Rights Commission consists of 5 commission members, appointed by the Governor. The commissioners are representative of religious, disabled, racial, and ethnic groups of both sexes in the State. As per NRS 233.090, the Commission is managed by an Administrator, also appointed by the Governor.

The Commission consists of a staff of 17 FTE. Currently, there are (2) two Compliance Investigator vacancies; NERC's challenge will always be to remain fully staffed at any given time within a state fiscal year.

### ***AGENCY KEY GOALS/ACCOMPLISHMENTS:***

#### ***GOAL:***

Decrease the Commission's backlog of cases and improve the Commission's performance indicator regarding overall case age and wait times.

#### ***ACCOMPLISHMENT(S):***

##### ***Challenge(s):***

NERC takes 12-13 weeks (92 calendar days) to conduct an initial interview with a charging party – this is commonly known as the intake interview. Scheduling is based on customer driven backlog and the first available investigator. NERC investigators have a 1-2 year “life” span before [seemingly] inevitable promotion or resignation. Losing an investigator has a trickle-down effect of delaying the investigative process. When NERC loses an investigator, cases are left stale until another investigator is able take the case. NERC must recruit, train and re-assign cases. Witnesses grow stale during this delay. It can take anywhere from two-three months to fill a vacant position.

For SFY 18, approximately 35% of cases were closed in six-months. Given NERC's turnover rate and high customer demand (approximately 1,000 complaints filed in SFY 16), this goal will remain challenging. SFY 19 predictions for case closure remain at 35%.

##### ***Success/Accomplishment:***

NERC has always put forth major effort(s) to honor our yearly contractual obligations with the Equal Employment Opportunity Commission (EEOC). The funding provided by our agreement to investigate and close cases on behalf of the EEOC as a partner, accounts for a little more than 1/3 of NERC's operating budget of approximately **1.8 million**. In both SFYs 17 and 18, upward modifications were successfully achieved for more additional contract credit whereby NERC was able, by its own efforts (i.e.: over-time,

volunteer hours, law ex/interns from UNLV Boyd School of Law) to obtain “surplus” funds for much needed equipment and budget gaps by successfully closing more cases than originally budgeted for additional EEOC funding. This is a huge accomplishment.

One of the unique qualities that accounts for a lot of NERC’s success is the good will and extraordinary efforts of staff committed to NERC’s mission. Staff remains committed to assisting those with limited means in their discrimination complaints. Moreover, our relationship with the Equal Employment and Opportunity Commission (EEOC) is solid. NERC’s outreach program has also proven successful in terms of visibility to employers and Nevadans as a resource tool to prevent work-place discrimination. NERC offers training at no-cost to employers.

### **Backlog**

Current back log is 450 cases pending assignment (as of January, 2019).

### **Wait times**

SFY 18 and 19 wait times to meet with an investigator after filing a formal complaint with NERC ranged from (12-13) twelve to thirteen weeks.

### **Current Wait time**

The current wait time to meet with an investigator is 13 weeks. Intakes are the first step to frame a charge (or dismiss) to begin the settlement/investigation process.

Despite backlog, overall case age and wait times, NERC successfully met and closed **693** cases of employment discrimination pursuant to its work share agreement with the EEOC at the conclusion of SFY 18.

### ***GOAL:***

Pursue additional opportunities to present training/outreach to employers and community Groups.

### ***ACCOMPLISHMENT:***

**In SFY 2018**, NERC provided outreach to approximately 1,600 employers/employees including LGBTQ inclusion training to the City of Henderson (Police and Fire) as well as training to a Nevada public entity regarding service animals assisting those covered under the ADA/AA, management employees of the Department of Motor Vehicles on gender identity and expression, and EEO training to all RTC employees. NERC hosted its second **Ban the Box Re-entry** panel discussion on October 30, 2017, with special remarks from Lt. Governor Mark Hutchison. Panelists included: Manny Lamarre (OWINN), Jon Ponder (Hope for Prisoners), Terry Johnson, Esq., (Gaming Control Board), Chief Natalie Wood (Parole and Probation), Maurice Emsellem (National Employment Law Project -NELP) and Assemblyman Tyrone Thompson (Bill Sponsor). The panel was moderated by NERC

Administrator Kara Jenkins, with an introduction and legislative review by Director Don Soderberg. Ban the Box guidance was sent to all guests, participants and panelists following the training and is available on NERC's website.

**Outreach for SFY 19** (July 1, 2018 through December 2018) includes live in-person training of approximately 965 employers/employees, including a **Sexual Harassment training hosted by NERC in partnership with EEOC and UNLV Greenspun College of Urban Affairs**. The training was held in Las Vegas and video-conferenced to Carson City. In addition, the NERC Administrator was a keynote speaker at EEOC's seminar in Las Vegas and presented information regarding the Nevada Pregnant Workers' Fairness Act and Nevada's **Ban the Box** legislation. NERC staff also provided LGBTQ training at the same seminar. Following this seminar, NERC prepared and emailed employers sample letter templates regarding criminal backgrounds.

**Upcoming partnership with UNLV:** In addition to training, NERC has partnered with UNLV's College of Urban Affairs to provide quantitative and qualitative data pertaining to **sexual harassment trends** and statistics in the state.

**GOAL:**

Continue to develop and improve the mediation program to facilitate early resolution of discrimination complaints.

**ACCOMPLISHMENT:**

The Commission continues show impressive benchmarks with its settlement rate and with regard to facilitating all forms of negotiated resolutions. This may be due largely in part to parties wanting a permanent resolution of the matter without significant time delays, including court costs and attorneys-fees related to federal/and or state court filings.

It should also be noted that NERC has dedicated staff trained in mediation to assist parties in resolving their grievances.

In SFY17, NERC successfully negotiated settlements (i.e., mediations and conciliations) in the approximate amount of **\$1,423,188.57** for Nevadans alleging discrimination in employment, housing and places of public accommodations.

In SFY18, NERC successfully negotiated settlements (i.e., mediations and conciliations) in the approximate amount of **\$1,408,364.04** for Nevadans alleging discrimination in employment, housing and places of public accommodations.

In SFY 19 to-date, NERC successfully negotiated settlements in the amount of **\$1,241,367.79** for Nevadans. NERC may very well settle up-to **\$2 million** by the end of the SFY 19.

***GOAL:***

EEOC Grant

***ACCOMPLISHMENTS:***

As previously reported, the Commission's federal partner, the Equal Employment Opportunity Commission (EEOC) has not rejected a single case submitted to it for closure credit and payment in this biennium.

***ADDITIONAL KEY LONG-TERM OBJECTIVES:***

1. Pursue additional opportunities to present training/outreach to employers and community groups.
2. Adopt a comprehensive case management system for online complaint filing.
3. Decrease the amount of time it takes to formalize a Charge, and decrease overall case age.
4. Increase staff state-wide.
5. Maintain our relationship with the EEOC.
6. Achieve an organizational structure to address caseload and time management.

***SIGNIFICANT LEGISLATION OR EXECUTIVE ACTION AFFECTING THE AGENCY:***

BDR: 19A9032006

Title: Notification of Regulatory agency with licensure authority of a NERC complaint

This BDR, if enacted will permit NERC to report, in limited circumstances, a non-compliant employer or to its licensing entity for failure to participate in a NERC settlement involving discrimination.

NERC would like to have the ability to inform a (sister) Regulatory agency of a probable cause finding involving discrimination when a settlement cannot be reached due to bad faith or lack of cooperation on the part of the respondent.