

## 5. Equal Employment Opportunity Complaints

It is against federal and state law, and King County policy to discriminate, harass, or retaliate in employment on the basis of an employee's race, color, age, gender, marital status, sexual orientation, religion, ancestry, national origin, veteran status, or disability. To ensure compliance, the Executive's nondiscrimination and anti-harassment policy provides employees and management with guidance and resources on how to address questions and concerns related to equal employment, discrimination, harassment or retaliation.

In addition, the departments, PAO, and HRD take initiatives to ensure a positive employment environment. This includes EEO management and employee training on nondiscrimination and anti-harassment and diversity management. In addition HRD maintains a pool of consultants selected to provide investigation and equity assistance services.

Employees have access to immediate supervisors and other members of management should questions or workplace concerns specific to discrimination, harassment, or retaliation need to be addressed.

Should an employee so choose there are federal, state, and local enforcement agencies such as the US Equal Employment Opportunity Commission (EEOC), the Washington State Human Rights Commission (WSHRC), and the King County Office of Civil Rights and Open Government (OCROG), with which to file a complaint.

### Summary and Complaint Tables

- The most frequent basis of complaint in descending order is retaliation (15%), race (12%), gender (11%), and disability (10%).
- A complaint may include more than one basis of discrimination charged.
- In 2016, a pilot project was launched, King County Investigation and Resolution Office, (KCIRO), which sought to minimize the disruption in the workplace caused by typical investigations, maintain positive working relationships, and reduce the time, cost, and worry of resolving complaints. This resulted in a significant uptick in workplace investigations, although nearly half of the investigations conducted by KCIRO in 2017 were unrelated to protected class status, and were identified as 'misconduct', for the purposes of the plan, these are found under the 'other' category.

The tables below detail complaint activity coordinated through the HRD Workforce Equity team for 2014 to year-end 2017.

## Complaint Cases Open and Closed

Status of Complaints	2014	2015	2016	2017	Total
Open Cases	16	14	22	75	127
Closed Cases	7	11	16	22	56
Total	23	25	38	97	183

## Complaints Filed Status

Status of Complaints	2014	2015	2016	2017	Total	%
Total Filed	21	25	26	23	95	100%
Remaining Open	1	8	10	18	37	39%
Settlement	14	13	6	3	36	38%
Administrative Closure	3	0	3	2	8	8%
Statute Ran	1	2	3	0	6	6%
Voluntary Dismissal	1	0	1	0	2	2%
Claim Denied	0	0	3	0	3	3%
Summary Judgement	1	1	0	0	2	2%
Defense Jury Verdict	0	1	0	0	1	1%
Litigate	14	19	13	12	58	61%
Totals	21	25	26	23	95	100%

## Number of Complaints by Executive Department

Department	2014	2015	2016	2017	Total	%
DAJD	2	3	8	4	17	9%
DCHS	0	0	0	0	0	0%
DPER	0	0	0	0	0	0%
DES	2	2	5	32	41	22%
DJA	0	0	0	0	0	0%
DNRP	1	6	2	5	14	8%
DOA	0	0	0	3	3	2%
DOT	3	7	5	11	29	16%
DPH	1	5	4	28	38	21%
DES	2	0	0	2	4	2%
KCIT	1	0	0	1	2	1%
KCSO	7	0	7	2	16	9%
DPD	2	1	3	7	13	7%
PAO	0	0	1	1	2	1%
Other*	2	1	0	1	4	2%
Total	23	25	35	97	183	100%

\*This encapsulates complaints in separately elected offices of King County, which are not included in the EEO/AA Plan

With a workforce of over 13,500 employees, in a typical year, the Executive Departments receive about one complaint for every 295 employees. Excluding the complaints registered through the KCIRO pilot, the Executive Departments receive one complaint for every 563 employees.

## Complaints by Basis

Complaints are filed based on one or more of the following. Because complaints may be filed on one or more protected statuses, the number of basis will be greater than the total number of complaints.

Basis of Complaints	2014	2015	2016	2017	Total	%
Sexual Harassment	3	1	2	4	10	3%
Race	5	9	8	17	39	12%
National Origin	0	2	5	5	12	4%
Retaliation	12	6	12	18	48	15%
Ethnicity	0	0	1	1	2	1%
Gender	5	7	11	11	34	11%
Disability	6	10	8	9	33	10%
Age	3	1	3	5	12	4%
Religion	0	0	1	1	2	1%
Other	15	23	22	65	125	39%
Total	49	59	73	136	317	100%

## Number of Complaint Basis per Charge Filed

Employees may file a complaint with more than one allegation of discrimination. This table describes the number of complaints filed with one to four bases per year.

Basis per Charge	2014	2015	2016	2017	Total	%
One	9	6	18	70	103	56%
Two	7	9	12	6	34	19%
Three	2	5	3	13	23	13%
Four or more	5	5	5	8	23	13%
Total	23	25	38	97	183	100%



## Responses to Council staff questions

### 1) **Can you tell us more about this pilot project?**

The idea behind the KCIRO pilot was to create an internal investigations program that would look into alleged violations of King County's Nondiscrimination and Anti-harassment policy. The intent was to save money versus hiring outside investigators, free up internal resources like Human Resources to focus on other work, reduce turnover among dissatisfied employees, and reduce the emotional costs of workplace friction.

DES, DOT and Public Health were the pilot departments that KCIRO first worked with. After a few months, DOT had less work than originally anticipated and KCIRO began additional outreach to other departments and separately elected offices. They also enlisted the KCIRO stakeholders to assist with getting the word out. The manager, Steve Zwerin, met with as many Human Resources folks as he could to explain the benefits of the program and encourage them to use it.

The program is shutting down on June 30<sup>th</sup>; 2018.

#### **Where is it housed?**

Initially (July 2016), KCIRO was housed in what was then the Office of Civil Rights and Open Government (OCROG). As part of the 2017-18 budget, OCROG was split and KCIRO moved to the Office of Risk Management Services. It has been housed in Risk Management since that time.

#### **Who staffs it?**

Leaders from Risk Management, HRD, ADR and the PAO sponsored and supported the KCIRO pilot. Steve Zwerin manages it, and is currently its only employee. Kelli Williams is Steve's supervisor. From October 2016 to February 2018, Karen Baker was the Senior Investigator on the team. Due to a smaller caseload than originally anticipated, her position was eliminated, and she transitioned to a role as the Risk Manager for Public Health.

#### **How does it function?**

KCIRO tries to resolve cases as a neutral factfinder. Where appropriate, they seek to resolve conflict through early resolution via the ADR program. At times, they also try to negotiate a resolution with the parties, if both sides are amenable to resolving their conflict. They work with the PAO, Human Resources, and OLR as appropriate.

In their investigations, in addition to addressing the immediate issue of harassment/discrimination/retaliation, they also identified the root causes of problems. They made recommendations to Human Resources/leadership, which were separate from their written reports on the investigation (i.e., whether they found a violation of the nondiscrimination and anti-harassment policy).

#### **Why would it result in an uptick in investigations?**

When KCIRO was first launched in 2016, it was a new resource for departments and divisions to utilize. The service was designed as a way for overburdened HR staff to outsource investigations. A typical complaint or allegation does not always warrant a full-blown investigation (colloquially referred to as an "Investigation with a big I"). When departments/divisions receive complaints or allegations, an assessment (an "investigation with a little i") is completed to determine if a full-blown investigation is warranted. This assessment

includes the nature, seriousness, and validity of the complaint or allegation among other determining factors. As KCIRO came online, more complaints and allegations were referred directly to KCIRO, without an assessment to determine if a full-blown investigation was warranted. As KCIRO's function is to conduct investigations, more investigations were conducted as a result. Although nearly half of the investigations conducted by KCIRO in 2017 were regarding misconduct not involving protected class status.

**Was there an outreach campaign encouraging more employees to report?**

No, referrals to KCIRO came directly from departments and divisions.

**2) Why is the total number of complaints in the second table for 2017 listed as 23 when the other two tables show a total of 97 complaints?**

The first table refers to all complaint cases (any complaint that comes into departments, divisions, managers); they do not rise to the level of claims filed against the County. The second table references discrimination claims and lawsuits filed against the County.

**3) Where does the data reported in these table come from? For example, Employees report complaints and HR managers in each department report to HRD centrally? Do you think there are complaints made to supervisors, issue resolved, and then it is not reported.**

The data is gathered from departments, from the OCR, KCIRO, and HRD. They include all complaints related to protected-class status that warrant an investigation. Based on those parameters, it stands to reason that complaints that are resolved without a "big I" investigation would not be included in this data.

**4) Can you define/describe a few of the terms in the table of "complaints filed status." What types of outcomes are included in "settlement?" (For example, cases that do not get litigated? Agreements signed? , etc. )**

**"Statute Ran"—is this referring to the 180 day OCR requirement?**

**"Administrative closure"—what types of outcomes are in this category?**

Issues resolved via settlement may have been in litigation and the County and the employee involved reached an agreement; however, settlements are often reached without litigation, too. At its most basic level, the "settlement" resolution indicates an agreement between the two parties which ends the dispute.

"Statute ran" refers to the 3-year statute of limitations for tort claims and lawsuits in Washington. These incidents were filed as claims, but did not escalate to lawsuits, and were essentially abandoned by the claimant. They were generally closed after a discussion with the PAO.

"Administrative closure" contains a variety of less common resolution circumstances. Some of these matters were resolved in conjunction with related claims or lawsuits. They may be related, but not exactly duplicate claims. Duplicate claims were excluded from the data at the outset. In that case, expenses and settlement amounts were generally associated with those other matters. This category also includes a couple of matters which were filed as tort claims, but should have more appropriately been filed elsewhere (such as a pay dispute to be resolved without the use of liability or insurance-related funds).

- 5) **The footnote at the bottom of the 3<sup>rd</sup> table for “Other” says “This encapsulates complaints in separately elected offices of King County, which are not included in the EEO/AA plan.” Which separately elected offices do you collect data from?**

Separately elected are not required to be included into the plan, but we do have separately elected offices who have chosen to participate. Those are: Assessments, Elections, the PAO, (newly added to plan), and KCSO.