



VERMONT HUMAN RIGHTS COMMISSION

2021

OUR MISSION

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations.



Who We Are

Commissioners	Staff
Kevin “Coach” Christie, Chair	Bor Yang, Executive Director and Legal Counsel
Nate Besio	Nelson Campbell, Staff Attorney Supervisor
Donald Vickers	Melissa Horwitz, Staff Attorney Investigator
Dawn Ellis	Cassandra Burdyshaw, Staff Attorney Investigator
Joan Nagy	John McKelvie, Executive Staff Assistant
	Amanda Garces, Director of Policy, Education & Outreach

What We Do

Commissioners hire the ED, hear cases, set the policy agenda. Staff work to:

1. Educate the public through outreach and training.
2. Advance effective public policies on human and civil rights.
3. Enforce laws through investigations and litigation.
4. Conciliate.

Trainings and Outreach

Type	Number of events	Number trained
Fair Housing Trainings (fair housing laws, reasonable accommodation requests, and/or mental illness and housing)	15	109
Implicit Bias & Civil Rights and trainings in bystander intervention & microaggressions.	13	661
COVID-19 Townhall: Xenophobia & Racism	1	70
Outreach Events	17	1824
Total Training and Outreach Events	46	2664

Advancing Policies

- The Governor's Racial Equity Taskforce
- The Language Access External Advisory Committee for the Vermont Judiciary
- The Training Council's Fair and Impartial Policing Committee
- The New England-wide project to design a framework to support the diversification of the educator workforce
- Hazing, Harassment, Bullying Advisory Panel
- Ethnic and Social Standards Advisory Working Group
- Governor's Workforce Equity and Diversity Council
- The Vermont Criminal Justice Council
- Vermont Multilingual Communication Task Force
- Immigrant Relief Fund Coalition
- Farmworker Health & Service Providers
- Refugee and Immigrant Service Providers Network
- Thriving Communities Steering Committee
- Affordable Housing Coalition
- Montpelier-Roxbury School District, Equity Committee



HRC enforces:

The Vermont Fair Housing and Public Accommodations Act.

- The anti-harassment laws in education
- The States gender neutral bathroom laws

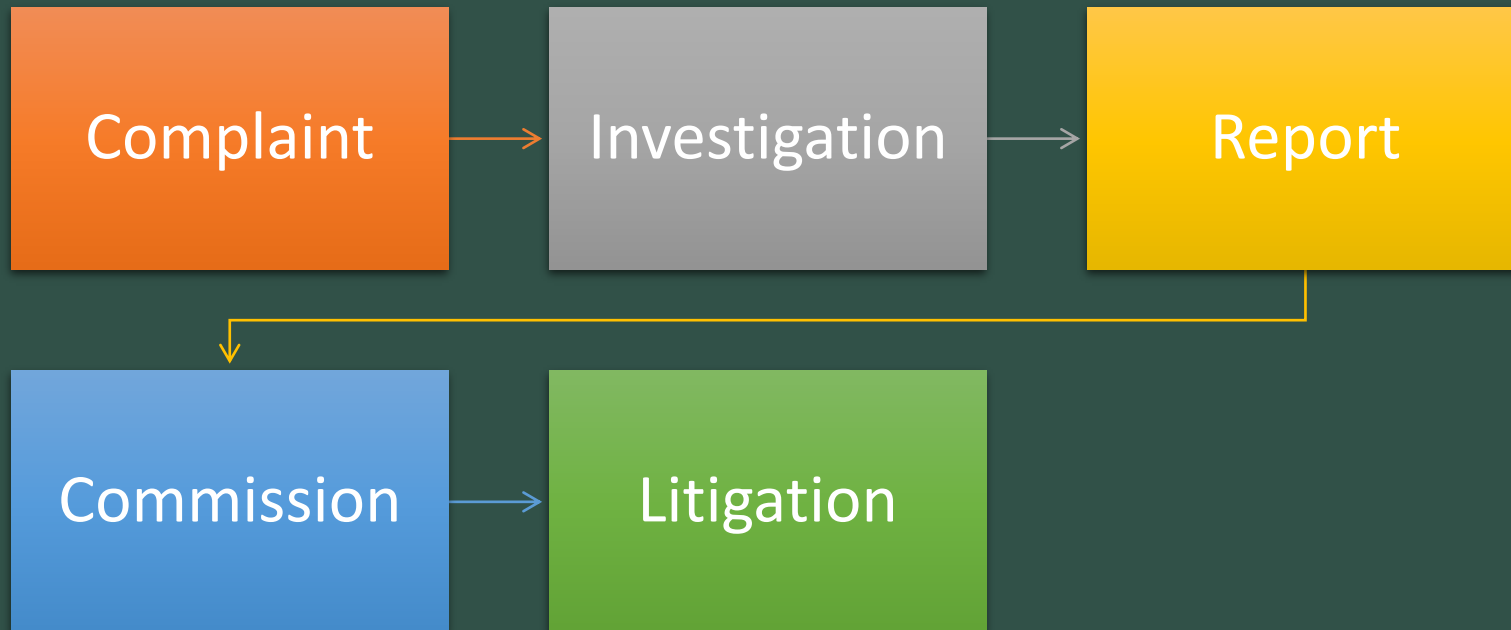
The Vermont Fair Employment Practices Act (FEPA) (for State government employees only); and

Retaliation provision of Worker's Compensation.

Retaliation provision of Parental Family Leave Act.

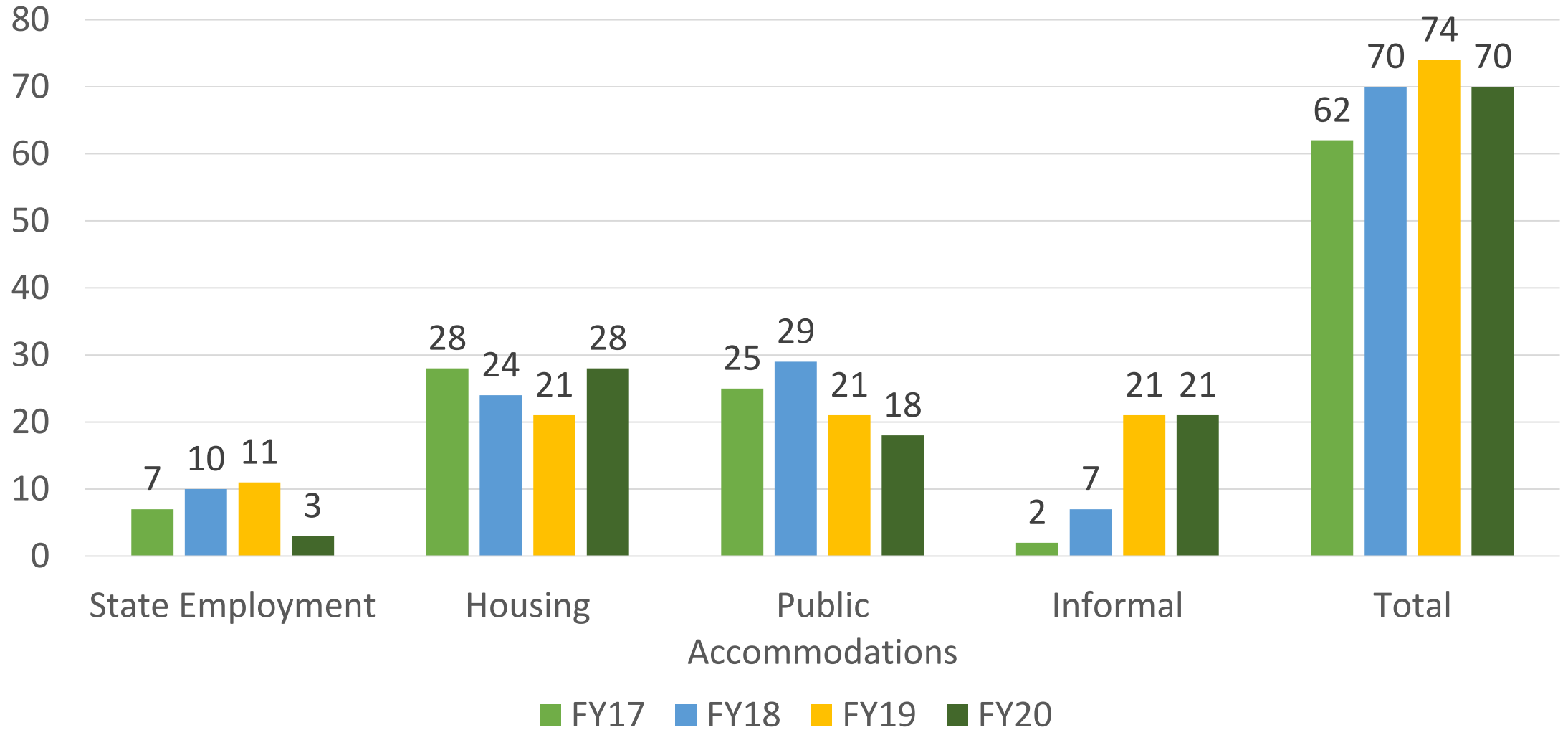
Flexible Working Conditions

The Process



Protected Category	Housing	Public Accommodations	State Government Employment
Race	✓	✓	✓
Color	✓	✓	✓
National Origin	✓	✓	✓
Religion	✓	✓	✓
Sex	✓	✓	✓
Disability	✓	✓	✓
Sexual Orientation	✓	✓	✓
Gender Identity	✓	✓	✓
Marital Status	✓	✓	
Age	✓		✓
Minor Children	✓		
Public Assistance	✓		
Breast Feeding		✓	✓
HIV			✓
Workers' Compensation			✓
Ancestry			✓
Place of birth			✓
Credit history			✓
Pregnancy Accommodation			✓
Crime Victim			✓
Victims of Domestic & Sexual Violence	✓		✓

Complaints Accepted in FY20

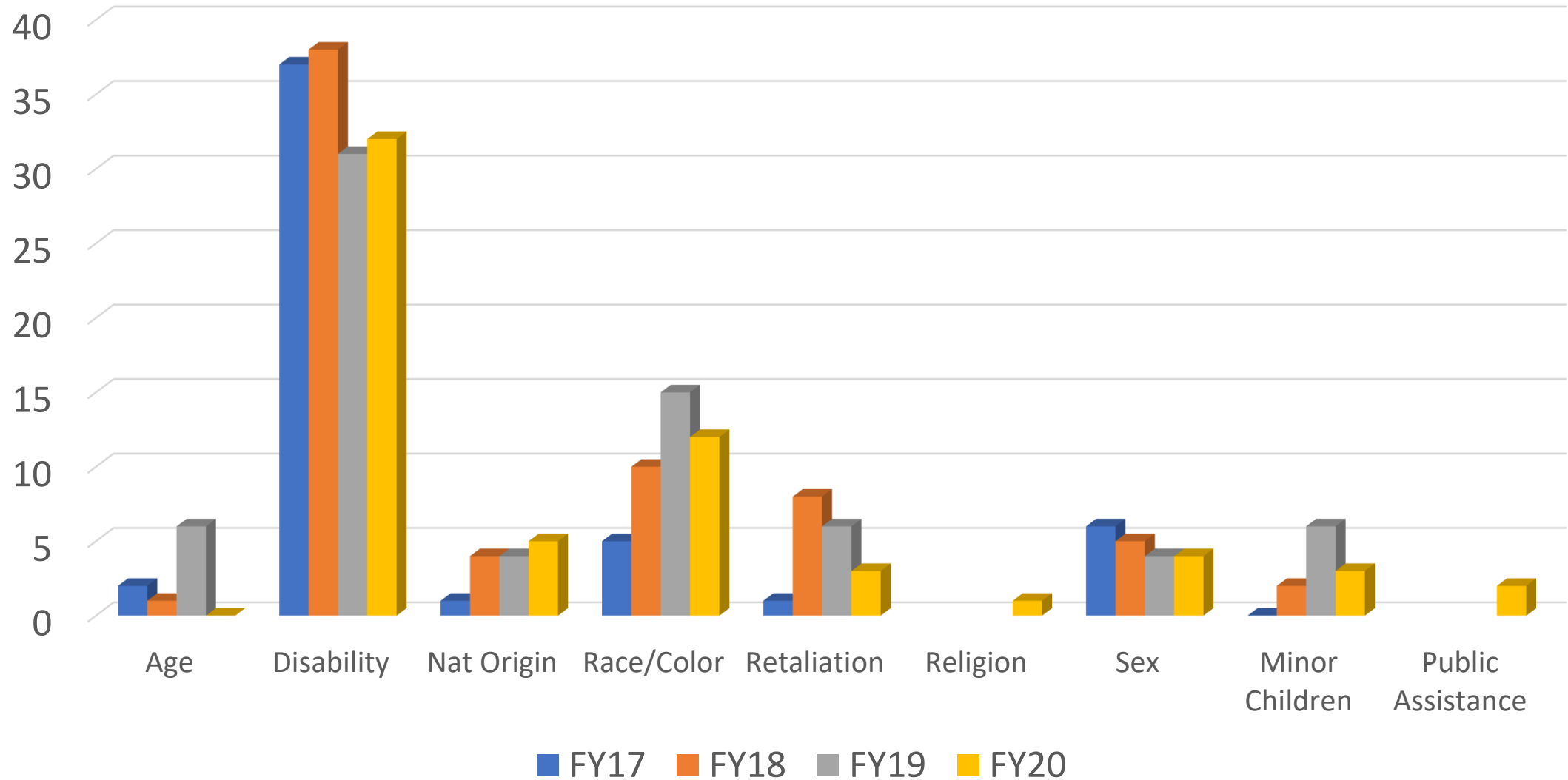


The Numbers Do Not Tell The Whole Story

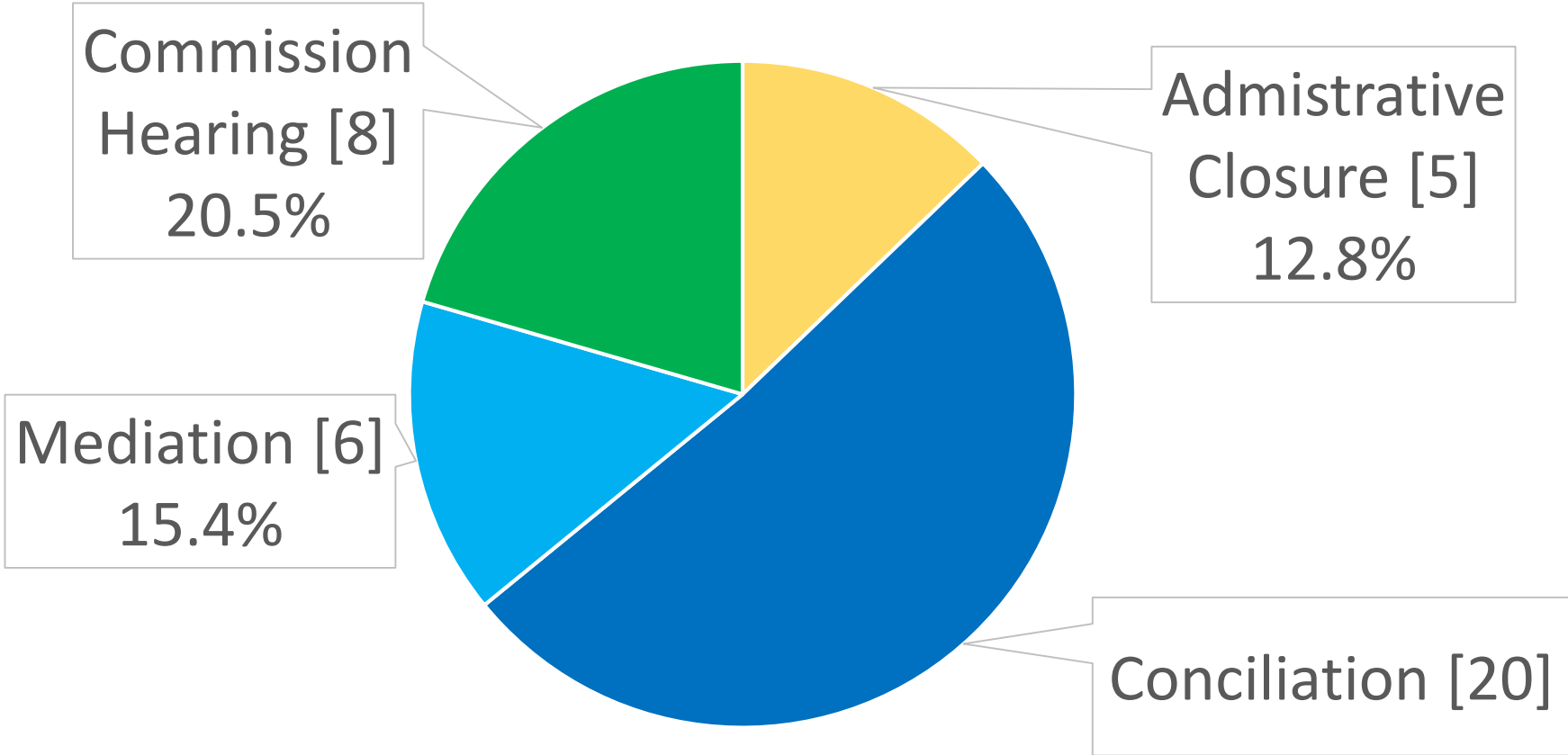
There are very real **BARRIERS** faced by persons who have experienced discrimination:

1. Fear of retaliation – loss of job, housing, future reference, community, etc.
2. Commitment of time and resources – trauma, unrepresented, other priorities take precedence, i.e. Covid-19 has reduced number of calls and complaints.
3. Disillusionment and distrust – the standard is high. Data tells us plaintiffs lose more often.

Frequency of Protected Categories FY20



Resolution of Cases Closed in FY20



Difficult and Complex Cases

- Does the segregation of inmates with psychiatric disabilities in Vermont's correctional facilities violate the integration mandate and Vermont's Public Accommodations statute?
- What implications do particular state and federal constitutional amendments such as the 4th amendment (prohibition against unlawful search and seizure) and 5th Amendment (privilege against self-incrimination) have on whether or not a person in a protected category is deprived of services, benefits and privileges guaranteed under the Public Accommodations statute?
- Does the State have a legal obligation to people with disabilities who are not in the care and custody of DMH or DAIR and if so, does a failure to meet that obligation equate to a violation of the Olmstead provision of the American with Disabilities Act(ADA) and the Vermont Public Accommodations statute? Does the lack of community integrated housing in Vermont violate the public accommodations act as to persons with disabilities?
- Has a government agency created an administrative process that effectively puts a person with PTSD at a disadvantage with respect to obtaining government benefits, privileges, and services to which he is otherwise entitled?
- When a school fails to strictly adhere to a student's 504 plan, does a singular violation or culmination result in the denial of goods and benefits to the student? How are benefits and goods characterized in the school setting?

Examples of Cases at the HRC

1. An individual who was deaf went to the hospital with chest pains and was never provided an interpreter for three days.
2. A state employee who went to work and heard the “n-word” on a daily basis filed a complaint against her employer when they failed to address the hostile work environment.
3. An aging man with dementia was held in a correctional facility after he spat at an officer. He was scheduled for an evaluation but because there was no room for him at the hospital, he was held at the correctional facility and segregated for a prolonged period of time which made his mental health worst.
4. An African-American woman was stopped by the police for following too closely. But they held her for two hours by the side of the road assuming she had drugs. She didn't have any and the minor ticket was even thrown out.
5. A family of Mexican heritage experienced on-going harassment from their neighbors for their national origin.
6. A Black man was terminated from work for job related errors and issues that two white female employees also committed but received probation and remained employed.

How Long Does it Take?

Employment discrimination: 349 days;

Housing: 134 days;

Public accommodations cases (schools, hospitals, roads, prisons, etc.): 418 days.

But there are also outliers. Some HRC cases have taken more than 2-3 years to close.

So?

People lose their private right of action under the statutes of limitations. People lose hope and faith in the process. People drop out. Witnesses disappear.

Under-utilizing the HRC's powers

The HRC has two of the greatest tools for enforcement: **Subpoena power** & **Right to Sue**. But we rarely go to court. Why?

Lack of Staffing →

Subpoenas are highly disputed and require resources.

HRC routinely declines litigation even when we find discrimination has occurred. Sometimes, these cases may be too financially risky for the private attorney but deserve to be heard and decided by Vermont's court. As a result, we have to look to MA, NH, NY to interpret our laws.

The Budget

The Governor's Budget → Permits us to keep our carryforward funds to supplement budgetary changes that have already occurred.

What we need to stay the same → \$26,000 added to the base budget.

What the House gave the HRC → One-time \$300,000.

What we need to move forward → two staff positions: 1 FTE Staff Attorney Investigator at \$150,000 and 1 FTE Litigator at \$150,000.

Legislative Support

The Human Rights Commission was enacted by the Legislature and designed to be independent from any governmental entity.

Its mission, goals, objectives and statutory powers and laws come from the Legislature.

The support for its work must and should come from the Legislature.



Questions?