

Iowa Civil Rights Commission Annual Report

FY 2008

43 years of

Enforcing civil rights through

Compliance, Mediation, Education, and Advocacy





CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

IOWA CIVIL RIGHTS COMMISSION
RALPH ROSENBERG
EXECUTIVE DIRECTOR

September 4, 2008

The Honorable Chester J. Culver
Governor of the State of Iowa
The State Capitol
Des Moines, Iowa 50319

Dear Governor Culver:

In accordance with the Code of Iowa, I hereby transmit to you and the General Assembly, the Annual Report of the Iowa Civil Rights Commission for Fiscal Year 2008.

During this past fiscal year, and with limited staff and resources, ICRC was able to reduce case processing time and backlog. However, achieving justice in the world of civil rights also means reducing and preventing acts of discrimination and making Iowa a more welcoming state. ICRC continues to stretch and leverage our resources to improve our work. Last year, ICRC worked to strengthen our training, outreach, and links with local communities across the state. For example, to assist with intake, informal screening of cases, and mediation, ICRC partners with Iowa Legal Aid. ICRC is one of the few civil rights agencies in this nation to partner with VISTA (and hire volunteers/staff) to do capacity building with local civil and human rights commissions. Within the past year, VISTA grant applications were successfully applied for to extend the VISTA work and 'place' VISTA staff in local commission offices in Des Moines, Sioux City, Waterloo, Dubuque, and Davenport.

ICRC works to promote safe, just and inclusive communities. Safe and inclusive communities are free from discrimination and free from loss of dignity and humanity. Civil rights enforcement helps ensure society receives full benefits of a diverse and inclusive workforce and reduces economic losses from discrimination. To prevent problems and provide a more welcoming economic climate, our agency educates business and industry on discrimination laws and diversity concerns.

One Iowa is a perpetual goal for the Iowa Civil Rights Commission. The goal of our agency is also in furtherance of our state's motto: *Our liberties we prize and our rights we will maintain.* Indeed, discrimination shall have no place in Iowa.

Respectfully submitted,
Ralph Rosenberg, Executive Director

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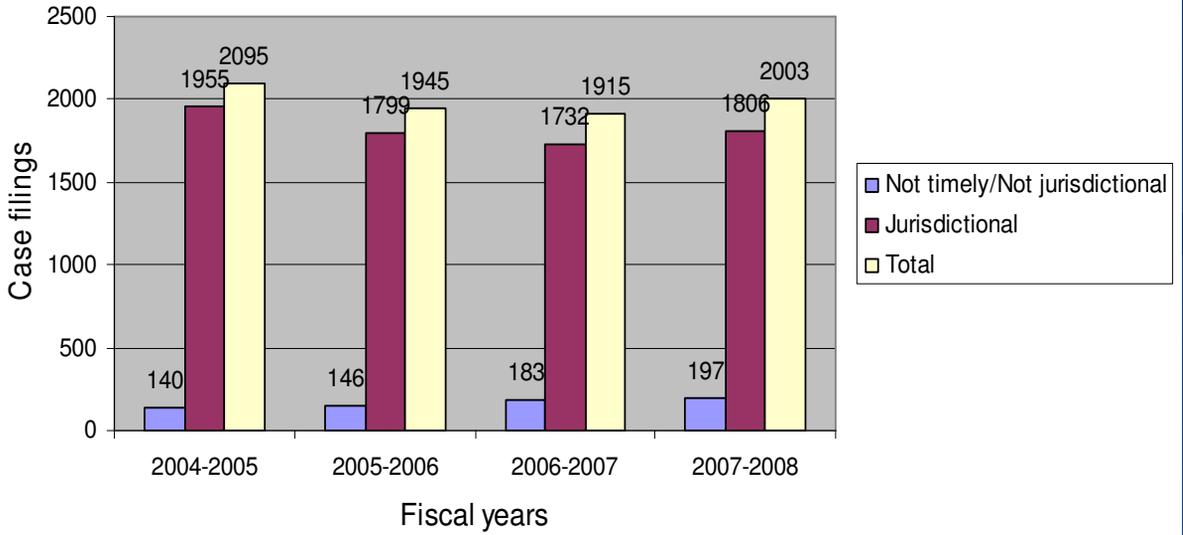
Case Processing



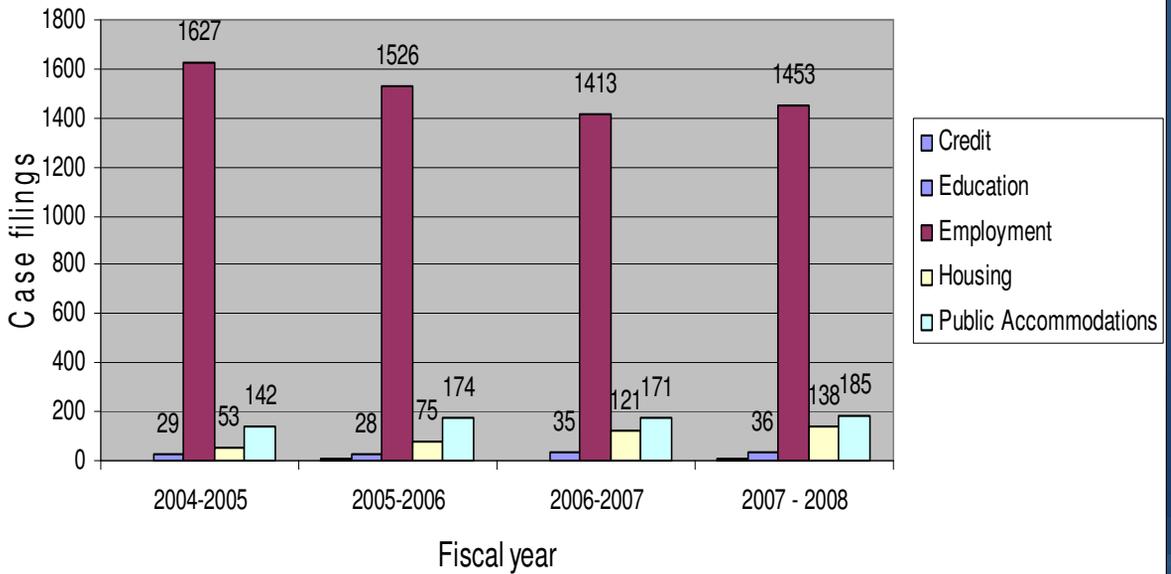
During this past fiscal year **2003** cases were **filed** with the Iowa Civil Rights Commission. Of those complaints, **197** were judged to be non-jurisdictional or untimely filed prior to being assigned a case number. Therefore, the number of complaints **docketed for processing** was **1806**. **Resolutions** or case closures numbered **2007**.

- Employment (80%) continues to be the largest area of complaints filed, followed by public accommodations (10%), and housing (8%). Over the past four fiscal years, housing complaints have increased 160% from 53 in FY 2005 to 138 in FY 2008.
- Sex (41%) and race (38%) were the most frequently named bases (personal characteristics) for discrimination in non-housing cases. These two leading bases of discrimination were followed by disability (31%), retaliation (26%), and age (22%).
- In housing complaints, race (41%) and disability (36%) were the most frequently named bases for discrimination; this was followed by retaliation (16%), sex (15%), national origin (10%), and familial status (9%).
- Of the 2007 case resolutions during this period, the largest category was "does not warrant further investigation/administrative closures" (47%). This was followed by no probable causes (11%), rights-to-sue (10%), satisfactory adjustments/mediated settlements (7%), and withdrawal with settlements (5%).

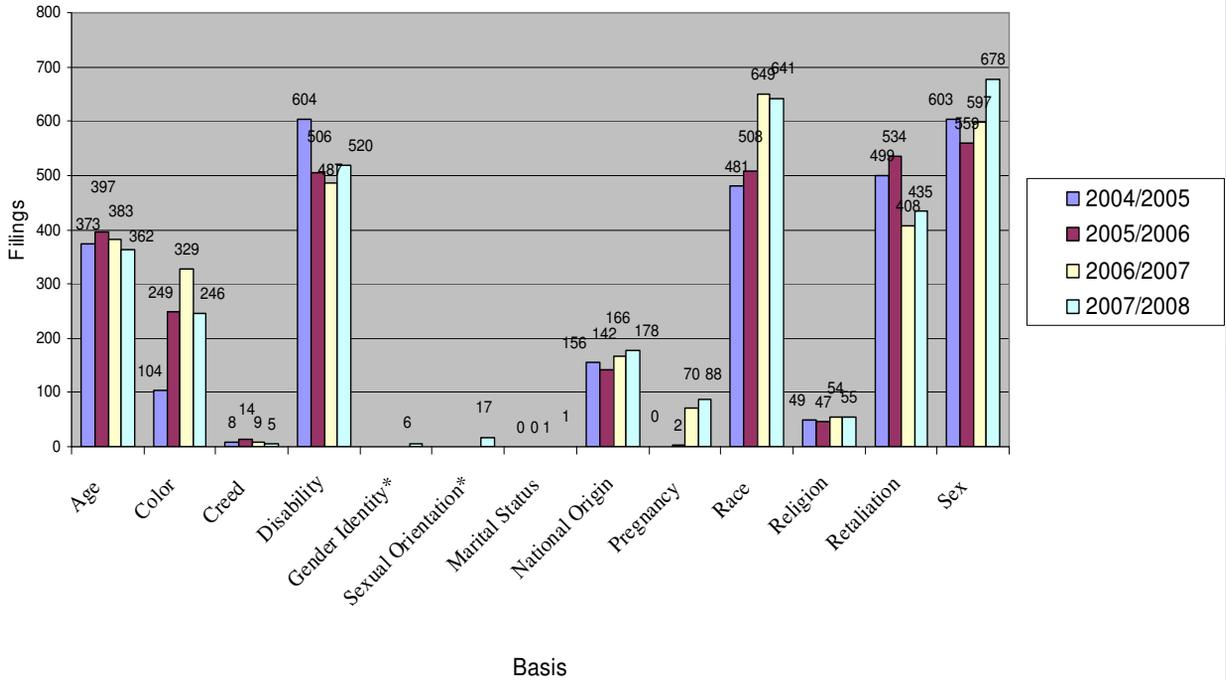
Total Case Filings Fiscal Years 2005 - 2008



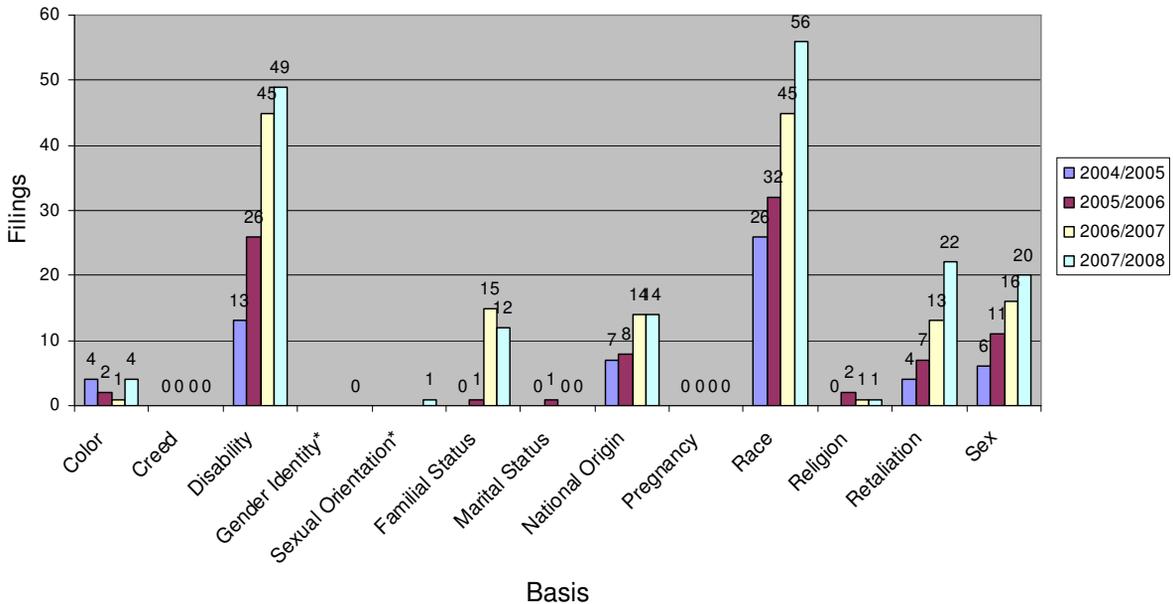
Case Filings by Area Fiscal Years 2005 - 2008



Filings in Non-housing Cases by Basis FY 2005 - 2008

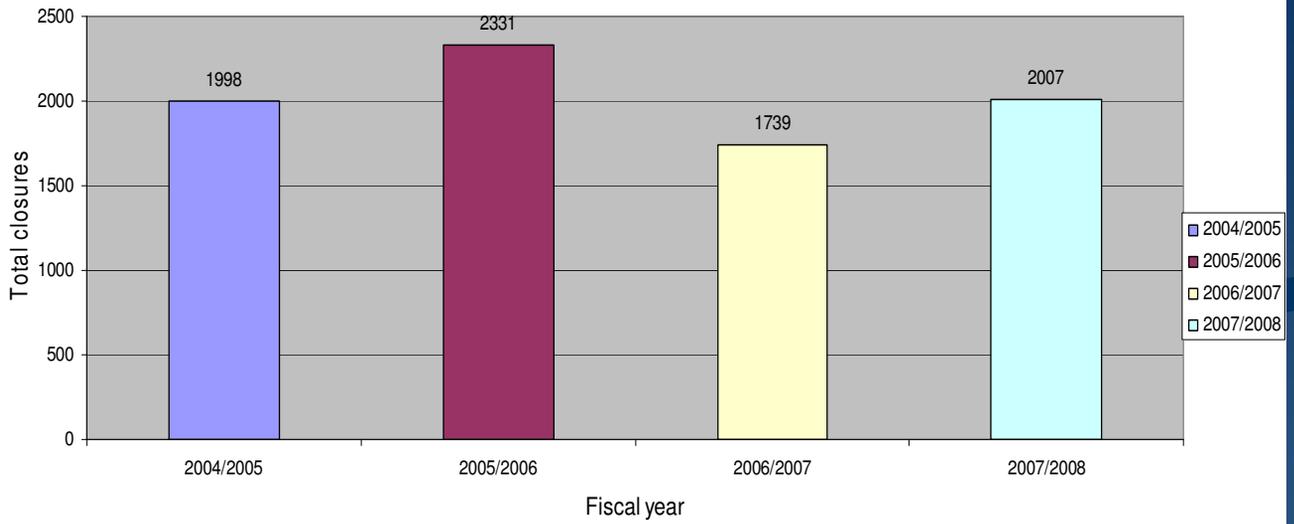


Filings in Housing by Basis FY 2005 - 2008

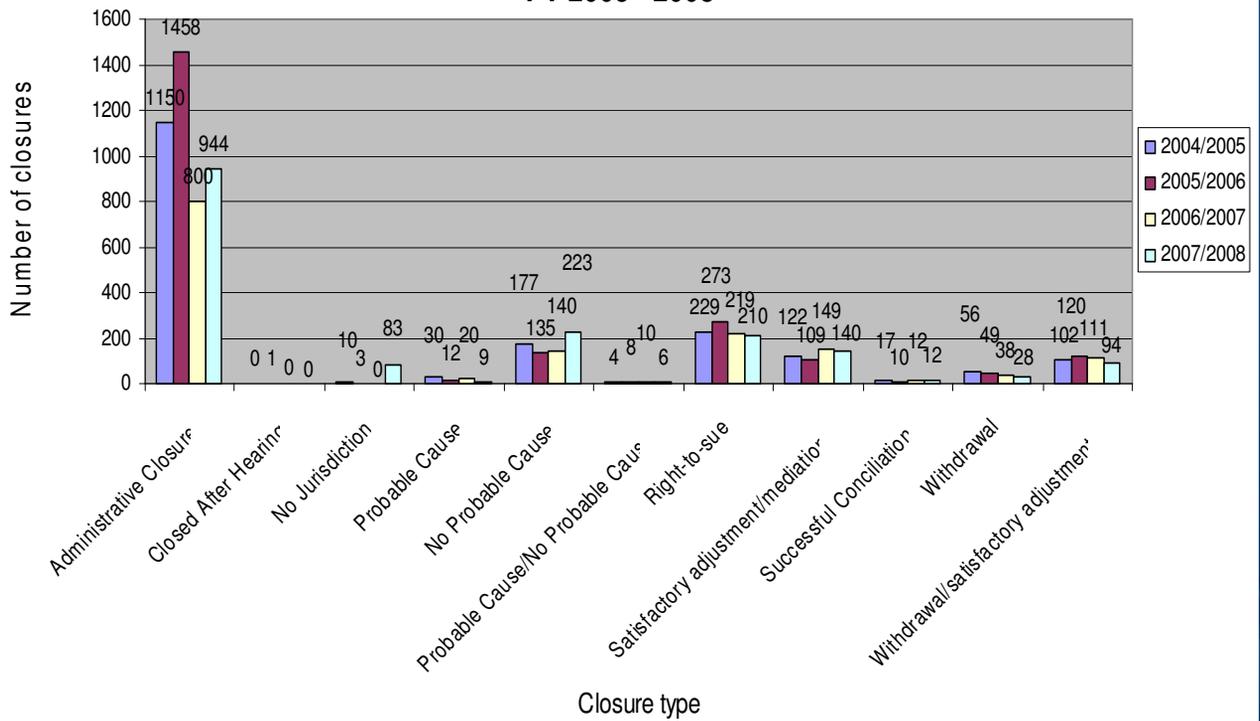


* Gender Identity and Sexual Orientation did not become protected bases until July 1, 2007.

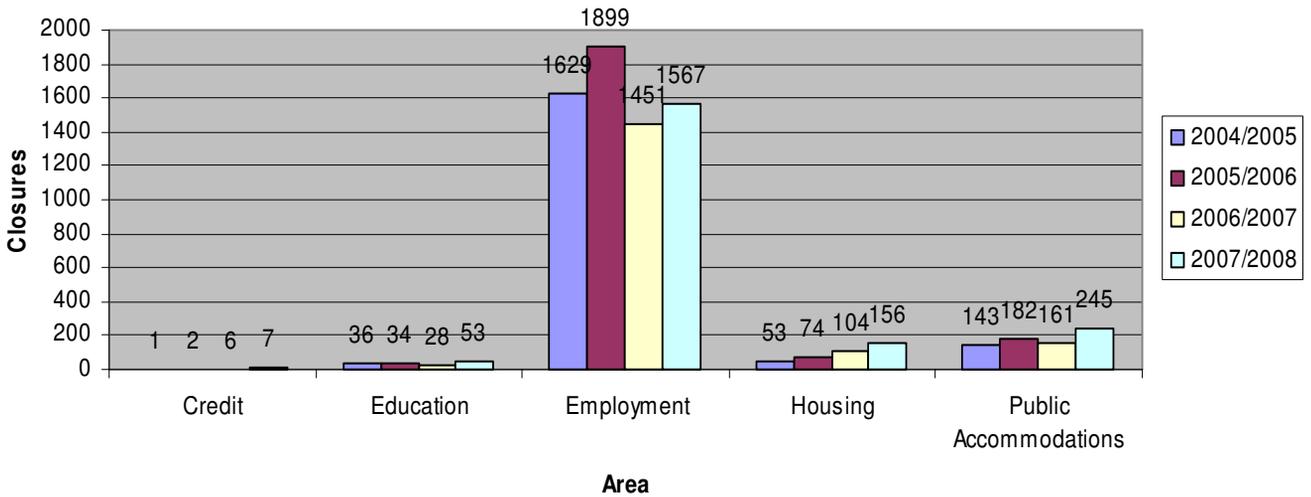
Total Closures FY 2005 - 2008



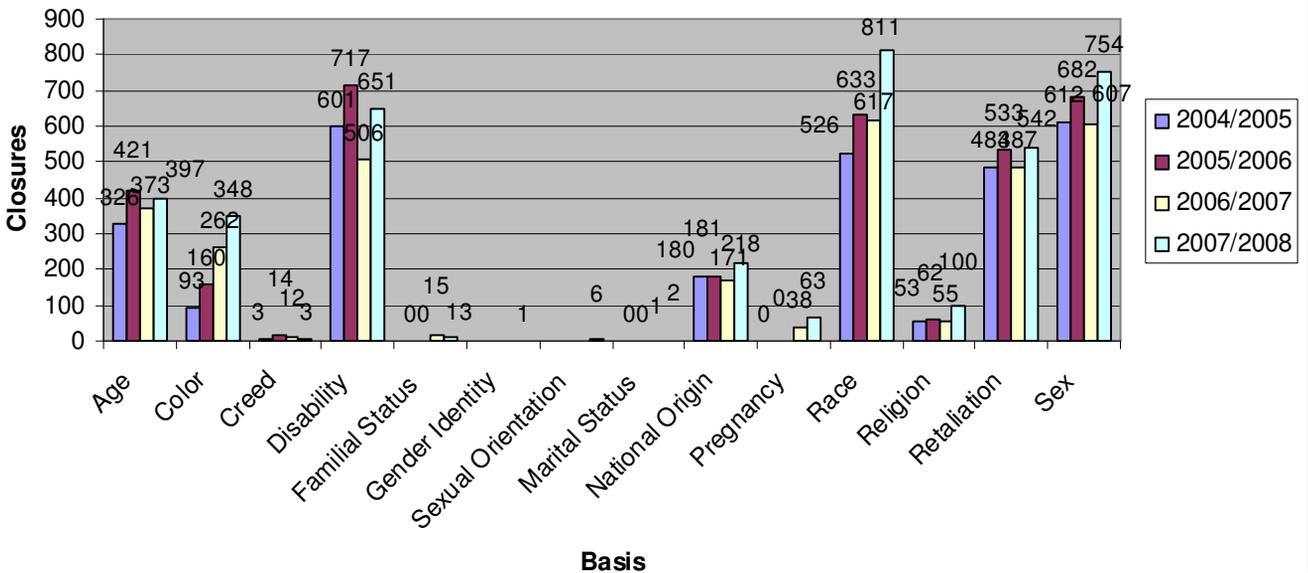
Case Closures by Type FY 2005 - 2008



Case Closures by Area FY 2005 - 2008

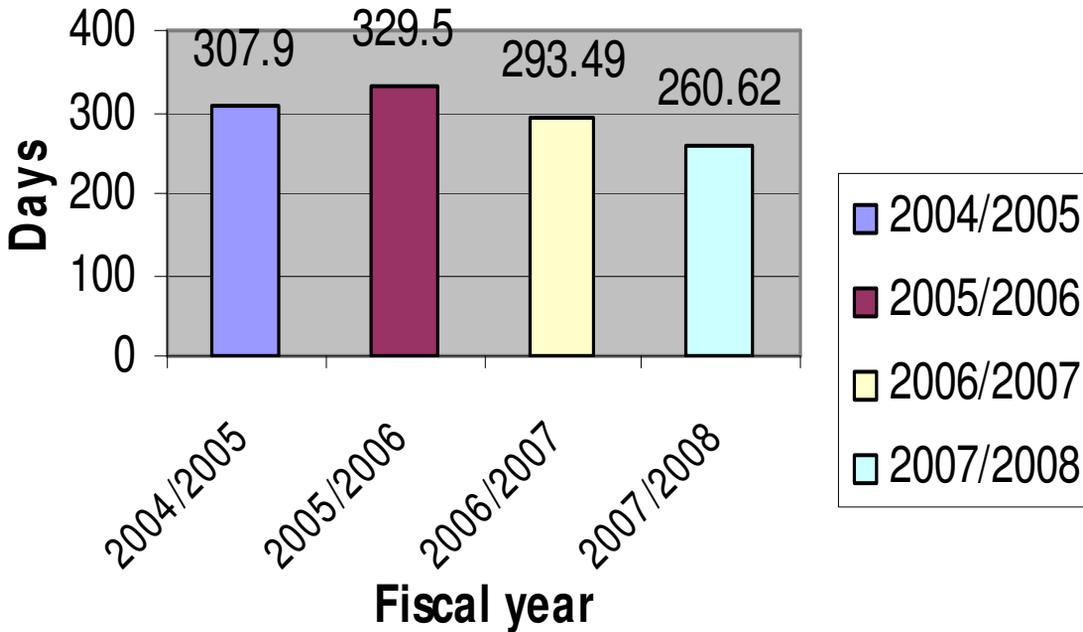


Case Closures by Basis FY 2005 - 2008

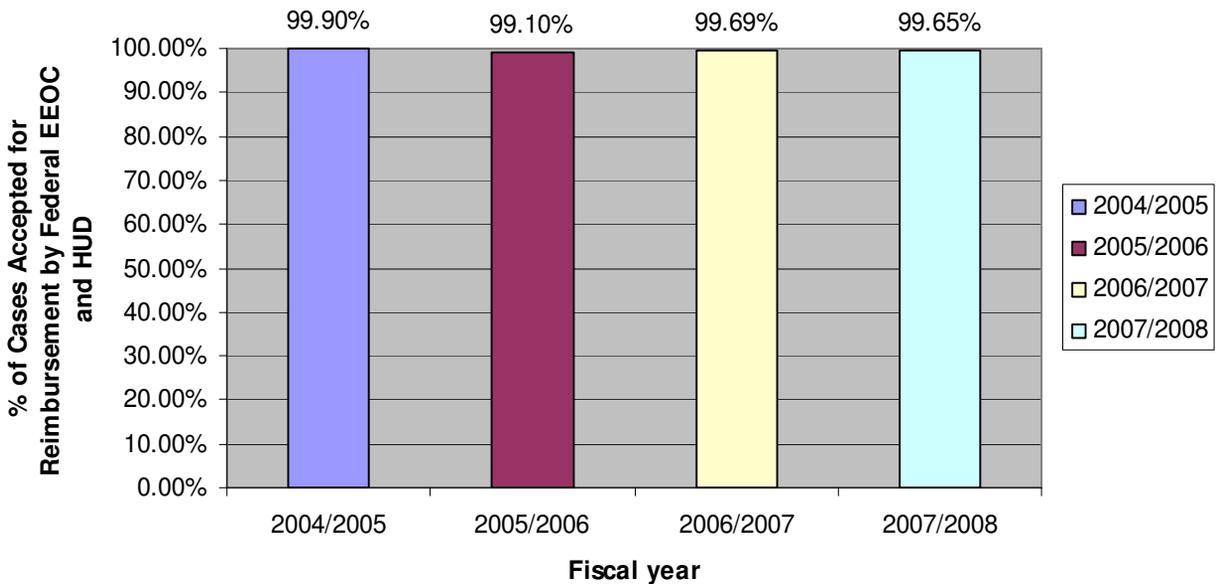


In fiscal years 2004/2005 and 2005/2006 computer issues prevented collection of closure data on familial status, marital status, and pregnancy.

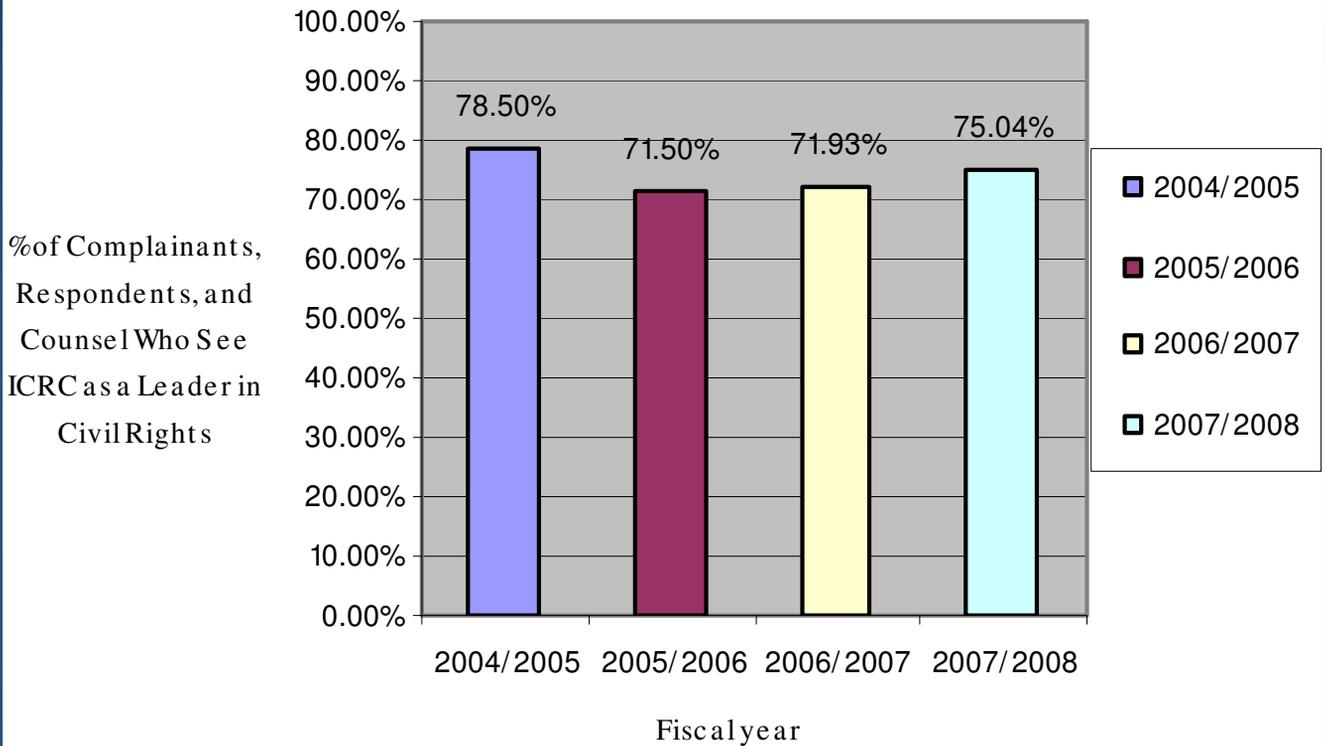
Average Number of Days to Process a Case FY 2005 - 2008



Timely and Quality Work Done by ICRC FY 2005 - 2008



ICRC is a Leader in Civil Rights FY 2005 - 2008



Conciliation

Conciliation occurs after a finding of probable cause has been made. It is the first point in the process at which the Commission becomes an advocate. Until this point, the Iowa Civil Rights Commission is a neutral investigatory agency. The Commission does not become an advocate, however, on the Complainant's behalf, but rather on behalf of the Probable Cause finding. During this fiscal year there were **33** cases assigned to conciliation; **13** cases resolved; and **18** failed. Some of the more notable successful conciliations are listed below:

FY 2007/2008:

Area: Employment

Basis: Physical Disability

Incidents: Reasonable accommodation, terms and conditions, constructive discharge

Resolution: \$10,159.50 for Complainant (\$5,159.50 back pay; \$5,000 emotional distress) and training for Respondent

Area: Employment

Basis: Race

Incidents: Terms and conditions and discharge

Resolution: \$20,000 for Complainant

Area: Employment

Basis: Sex (Pregnancy)

Incidents: Terms and conditions and discharge

Resolution: \$1,000 for Complainant and training and policy for Respondent

Conciliation – continued

Area: Employment – 2 cases

Basis: Sex and retaliation

Incidents: Terms and conditions, sexual harassment, and constructive discharge

Resolution: \$3,000 for Complainant and \$2,000 for Complainant's attorney

Area: Employment

Basis: Sex and race

Incident: Hiring

Resolution: \$2,500 for Complainant and training for Respondent managers and supervisors

Area: Employment

Basis: Sex (pregnancy)

Incident: Terms and conditions and discharge

Resolution: \$12,779.10 back pay for Complainant, posting of policy, and education for Respondent

Area: Employment

Basis: Sex (pregnancy)

Incidents: Terms and conditions and discharge

Resolution: \$5,000 for Complainant, policy changes, and training

Area: Employment

Basis: Age

Incidents: Terms and conditions, demotion, and discharge

Resolution: \$34,240 for Complainant and Complainant's attorney

Area: Employment

Basis: Race and color

Incidents: Terms and conditions and discharge

Resolution: Job and seniority reinstatement

Cases Handled by Assistant Attorney General

FY 2008 Report

Agency enforcement activities:

State ex rel Henderson v. Des Moines Municipal Housing Agency, City of Des Moines, S.Ct. #06-1144 (Iowa Ct. App. 12-28-2007).

The State's action was brought on the claim that Ms. Henderson is a person with a disability who needed the assistance of a psychiatric companion animal, and that the City had failed to accommodate her by waiving its pet policy and had, in fact, terminated her tenancy because she kept a psychiatric companion animal. The City filed a motion for summary judgment, arguing that Henderson was not otherwise qualified for the housing unit [because she was out of compliance with the pet policy], and thus not entitled to relief. The District Court granted the City's motion.

On appeal, the Court of Appeals held that the determination as to whether one is a qualified person with a disability is one that is made *after* consideration of the reasonable accommodation. The standard for determining the reasonableness of a requested service animal accommodation depends upon the individual's need for the animal and the effectiveness of the animal in resolving disability-based problems.

Viewing the facts in the light most favorable to Henderson, the Court of Appeals concluded that reasonable minds could differ as to whether Henderson's request for permission to keep a service animal was a reasonable response to her mental illness. The Court of Appeals reversed the judgment of the district court and remanded for further proceedings. There is currently a trial date of March 9, 2009 set in this matter.

Woomert v. Iowa Civil Rights Commission, S. Ct. #07-1352.

This is a judicial review proceeding in which the Petitioner challenged the agency's policy of determining what event will trigger the filing period for filing a claim under the Iowa Civil Rights Act. The agency has long followed what is regarded as the majority—or the Ricks/Chardon—rule in which the precise event that is alleged to be discriminatory triggers the commencement of the filing period. The Petitioner urged that Iowa follow the minority position which is that, for employment discrimination claims involving a discharge, the filing period does not commence until the individual's employment ceases.

The matter was retained by the Court of Appeals which upheld the Commission's interpretation and its dismissal of the untimely complaint in a decision issued on June 25, 2008. The Court of Appeals noted that Iowa courts have consistently employed federal analysis when interpreting Iowa's statute and especially so when the language at issue is virtually identical in the two statutes. The Petitioner is seeking further review before the Iowa Supreme Court.



Cases Handled by the Assistant Attorney General (continued)

Renda v. Iowa Civil Rights Commission, S. Ct. # 08-0428

This is a judicial review proceeding in which the Petitioner challenged the agency's determination that it lacked jurisdiction over the complaint filed by an inmate of a correctional institution, claiming both employment and housing discrimination. The agency had determined that because Renda's relationship with the correctional institution is custodial, Renda was not an "employee" and the correctional facility to which she was sentenced is not a "dwelling". The Polk County District Court affirmed the decision of the Civil Rights Commission and the Petitioner has appealed the matter to the Iowa appellate courts.

Kretschmer v. Iowa Civil Rights Commission, Polk Cty. # CV 6822

This is a judicial review of the agency's No Probable Cause determination. Because the agency's order included an erroneous statement of the law and otherwise failed to identify factual findings in supporting the finding of No Probable Cause, the Court remanded the matter to the Civil Rights Commission for clarification of the basis for its determination.

State ex rel Claypool v. Evans, MTE Project, Anderson-Bogert and

State ex rel Frank v. Evans, MTE Project and Blue Jay Ridge Condominium Association, S. Ct. # 07-0158

These matters are pending before the Iowa Supreme Court and are scheduled for submission on September 2, 2008. The appeal concerns the statute of limitations for disability discrimination that occurs because of defective housing design and construction. It is the State's contention that the date to file the claim is triggered by the denial of housing that occurs when the prospective homeseeker encounters the discrimination; the defendants have claimed that the time to file begins to run at the time that the last unit is sold. The State has also argued that when the State brings a claim under its pattern or practice authority, it is acting as a sovereign and is not subject to a statute of limitations.

State ex rel Collier v. BBMY II, Willow Park, Polk Cty. No. CV 7208

This is an original action, filed June 16, 2008 alleging housing discrimination on the basis of disability.

Others. The attorney general's office has successfully defended the agency's determinations of No Probable Cause in other judicial review proceedings and has assisted the agency in enforcing its administrative subpoena.

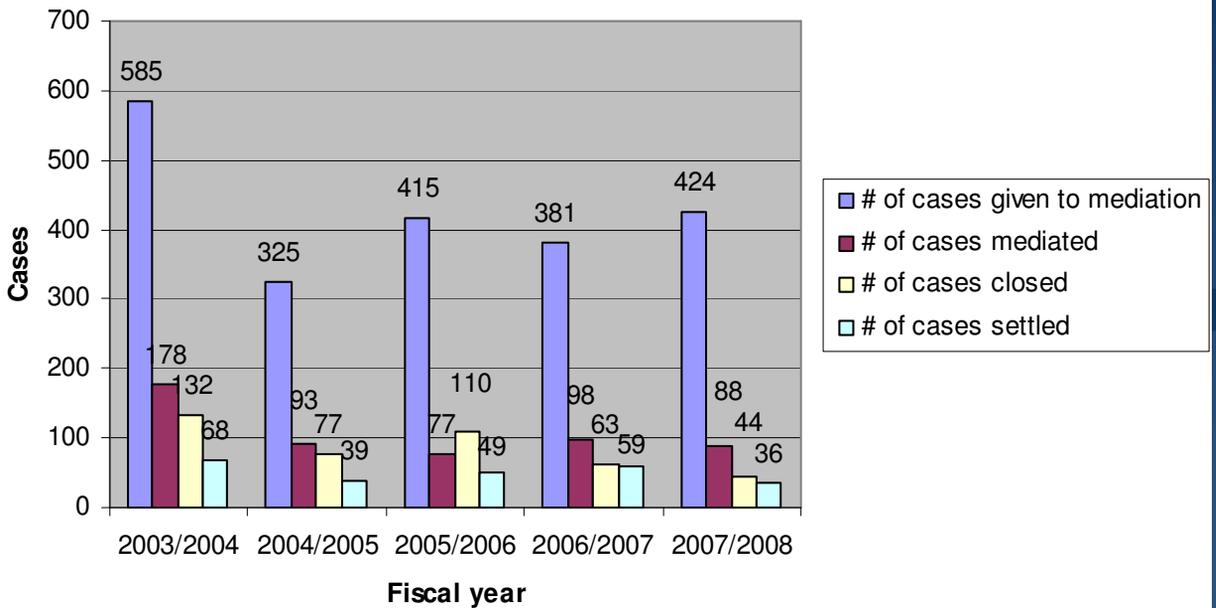
Mediation



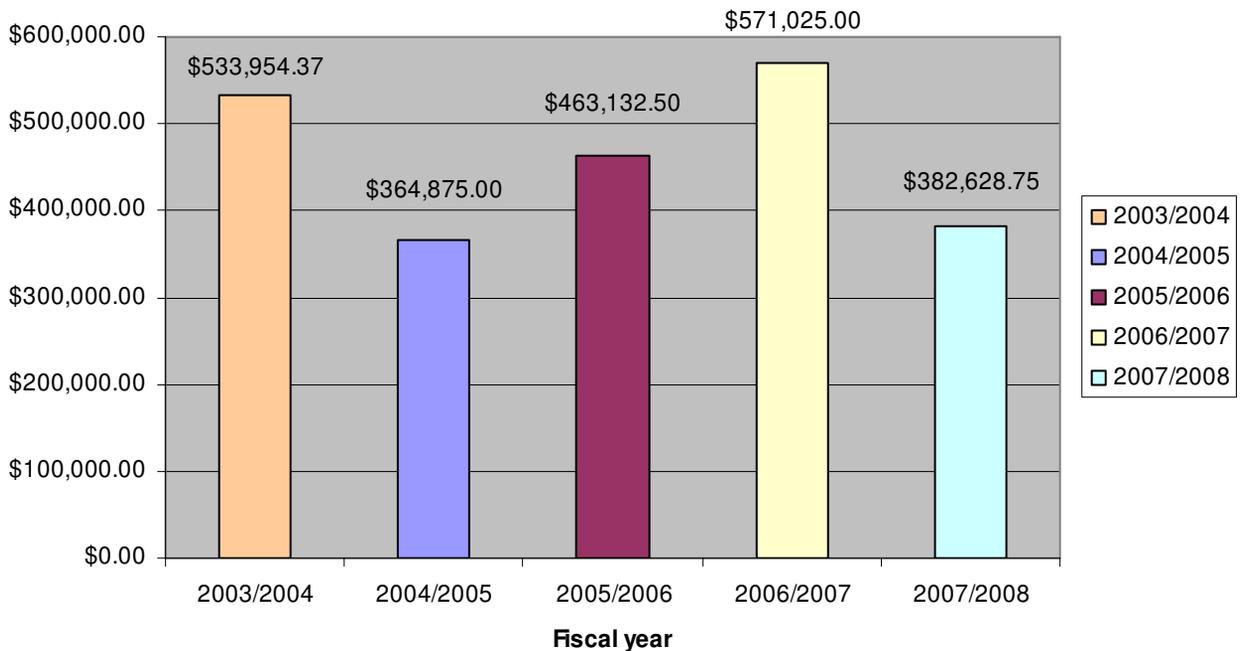
The **Mediation Program** was created to provide efficient and effective mediation service for lowans with civil rights complaints. Mediations are conducted throughout the state of Iowa. Onsite mediations encourage Complainants and Respondents to resolve disputes in one meeting, which decreases timeframes significantly in case resolution.

- The mediator's role is as a neutral third party who facilitates the discussions between the Complainant and the Respondent. The purpose is to assist the parties to reach a compromise.
- As the result of the more recent trend towards alternative dispute resolution (ADR), more and more disputes are resolved by mediation, even before the parties file suit in court. Mediation reduces litigation and costs associated with court. There are two requirements that must be met at the Iowa Civil Rights Commission before mediation takes place: first, both parties must be willing to resolve the dispute and second the process must remain confidential.
- The partnership with the Local Commissions and the Iowa Civil Rights Commission to utilize space at the locals to conduct mediations throughout the state of Iowa has been continued. This partnership allows the team to travel and reduce any hardship on Complainants and Respondents.

Mediation Data FY 2004 - 2008



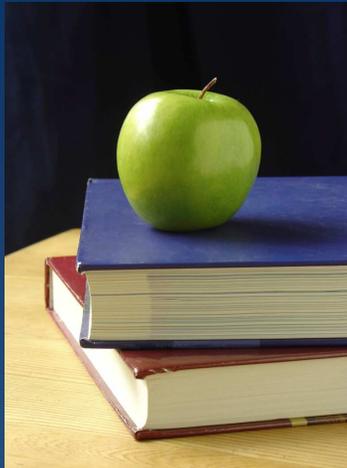
Total Value of All Mediation Settlements FY 2004 - 2008



Noteworthy Mediations FY 2008

Date	Area	Basis	Incidents	Terms
June 2008	Employment	Physical disability	Reasonable Accommodation and Discharge	\$18,000
March 2008	Employment	Race, Retaliation	Training, Terms and Conditions, Discharge	\$12,500
January 2008	Employment	Retaliation	Terms and Conditions, Harassment, Promotion	\$12,000
November 2007	Employment	Race, Sex, Religion, Color, Retaliation	Benefits, Promotion, Harassment, Assignment, Discharge	\$20,000
November 2007	Employment	Sex, Age, Physical Disability	Assignment, Terms and Conditions, Discharge	\$40,000
October 2007	Employment	Physical disability	Terms and Conditions, Discharge	\$25,000
October 2007	Employment	Sex	Sexual Harassment, Terms and Conditions, Constructive Discharge	\$15,000
September 2007	Employment	Race, Sex, Color, Physical Disability, Retaliation	Terms and Conditions, Reasonable Accommodation, Wages, Demotion, Discharge	\$26,250
September 2007	Employment	Sex, National Origin, Age, Physical Disability	Terms and Conditions, Wages, Harassment, Promotion, Assignment	\$45,000
July 2007	Employment	Sex, Age, Physical Disability	Terms and Conditions, Promotion, Harassment, Discipline	\$21,000

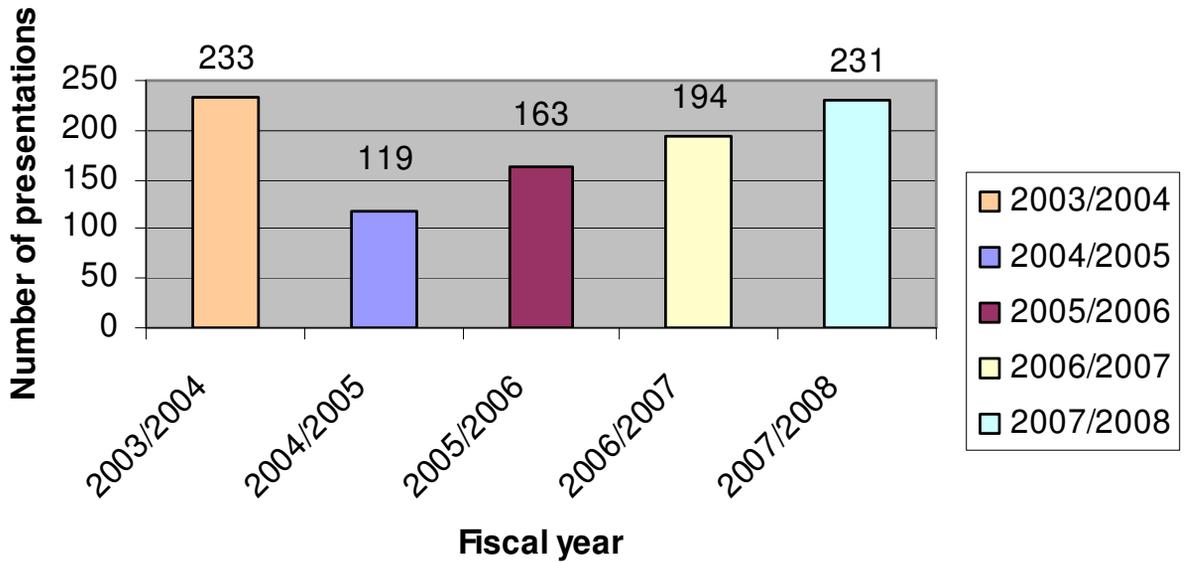
Educational Resources



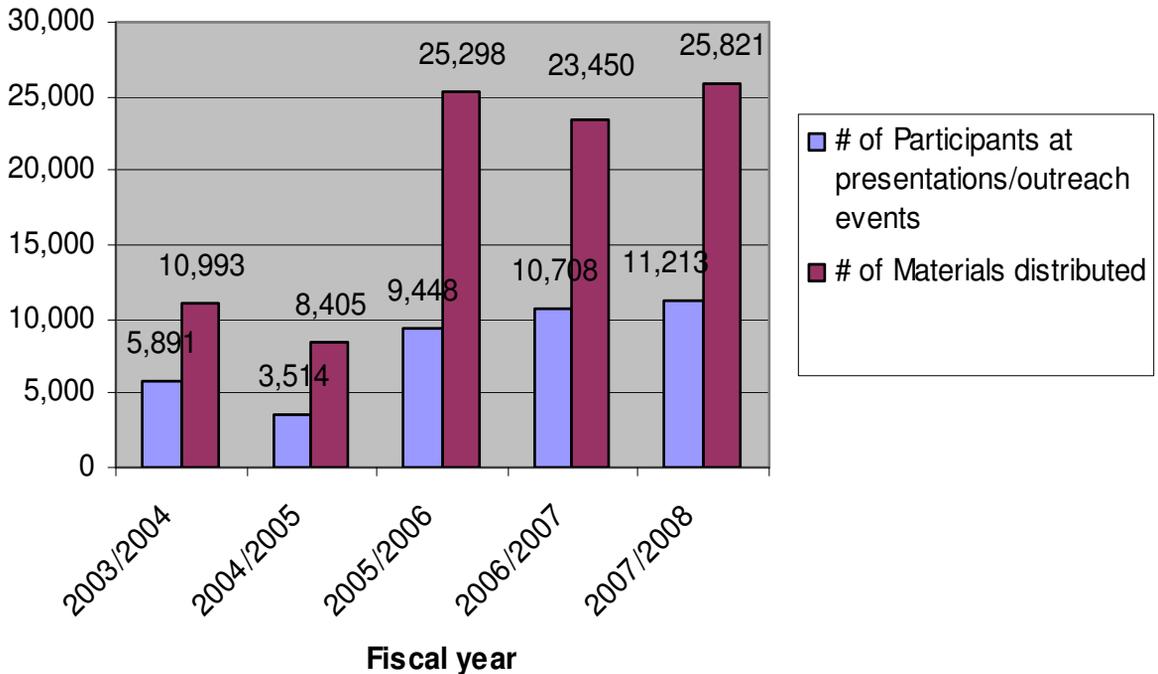
- The Educational Resources Team plans and implements the education and outreach activities of the Commission. It is responsible for the coordination of Accountable Government requirements and agency evaluation processes; implementation of the Iowa Excellence Program; the writing and administration of grants; the coordination of special projects; the production, updating, and dissemination of educational materials; the coordination of translation requests, the administration of the internal and external educational materials lending libraries; and overview of the agency's case management system.

- The Commission's educational programs are designed to inform people about their rights under the law, and to inform businesses, landlords, and other organizations about how to conduct their operations in accordance with the law.
- Staff are available, upon request, to conduct public speaking engagements, workshops, classes, and other events. For fiscal year 2008, staff participated in **231 events**, reaching **11,213 participants**. The most requested topics through the year were for programs on diversity issues and harassment.
- The citizens of Iowa continues to use the video lending library offered by the Commission. There were **58** uses of the videos by staff and by citizen requests.
- The public called the Commission for information **990** times during this fiscal year. These non-complaint-related calls came from employers, employees, renters, attorneys and others who wanted to know about civil rights and discrimination. Over the years, the number of e-mails has surpassed the number of calls we receive for information. During this fiscal year, **5,166 informational e-mails** were handled. Calls, e-mails, and presentations, resulted in **25,821 materials** being distributed. The Commission's website www.state.ia.us/government/crc received an average of more than **4,600 hits** monthly, from an average of almost **1800 individuals** per month. During this fiscal year **287** translations were also requested or needed.
- The Iowa Civil Rights Commission also continued to co-sponsor the I'll Make Me a World in Iowa celebration, held at the end of January each year. Close to 10,000 people now attend the event, held over a two-day period. The Iowa Civil Rights Commission has also been actively involved in the planning of Iowa's Mosaic, the statewide diversity conference held in the fall of each year since 2003; collaborated with the Des Moines Human Rights Commission for their annual symposium; worked closely with local human and civil rights agencies; and provided outreach via booths at the Iowa State Fair and numerous festivals around the state.

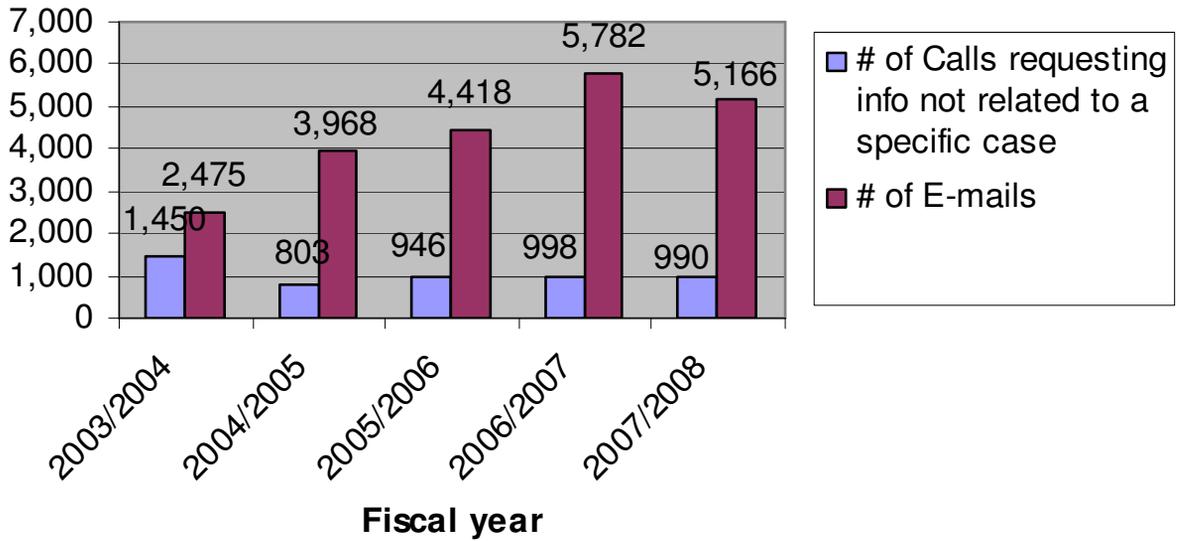
Number of ICRC Presentations FY 2004 - 2008



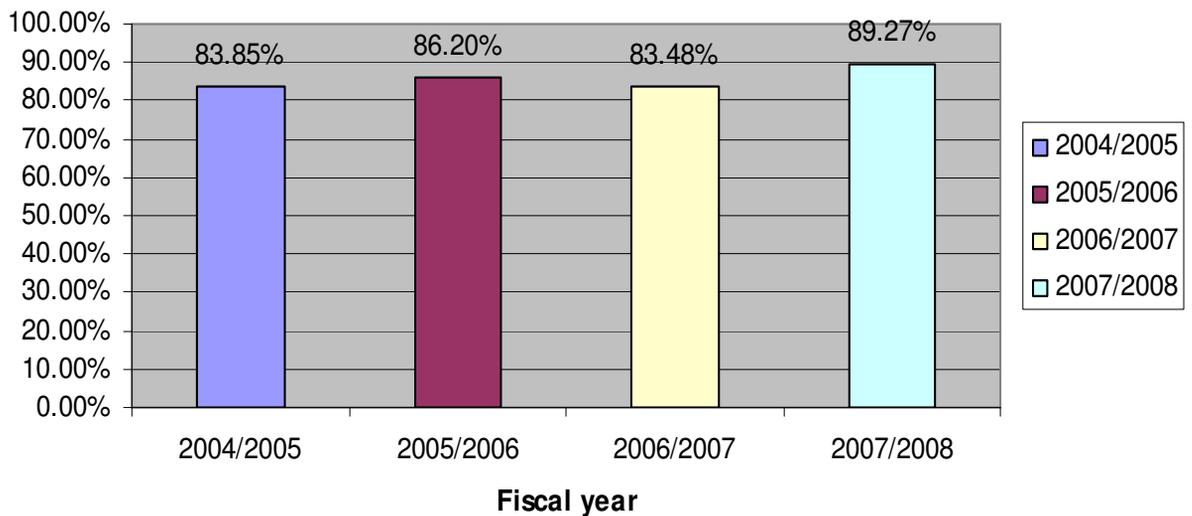
Number of Attendees at Presentations and Materials Distributed FY 2004 - 2008



Number of Calls and E-mails Handled FY 2004 - 2008



% of Presentation Attendees Indicating Satisfaction with Education Services FY 2004 - 2008



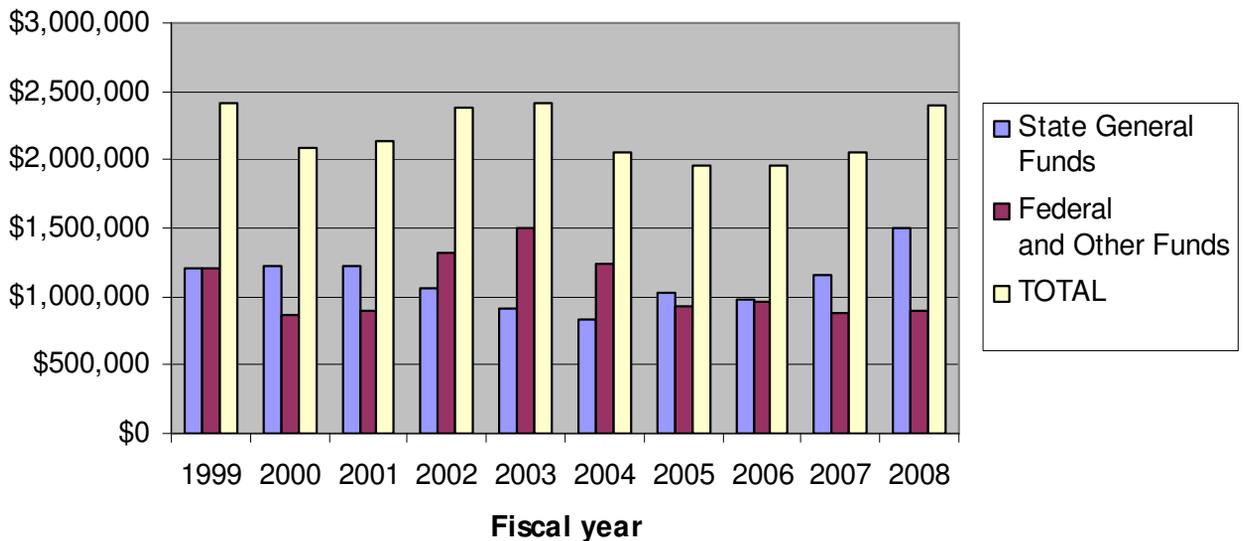
Budget

Agency Funding

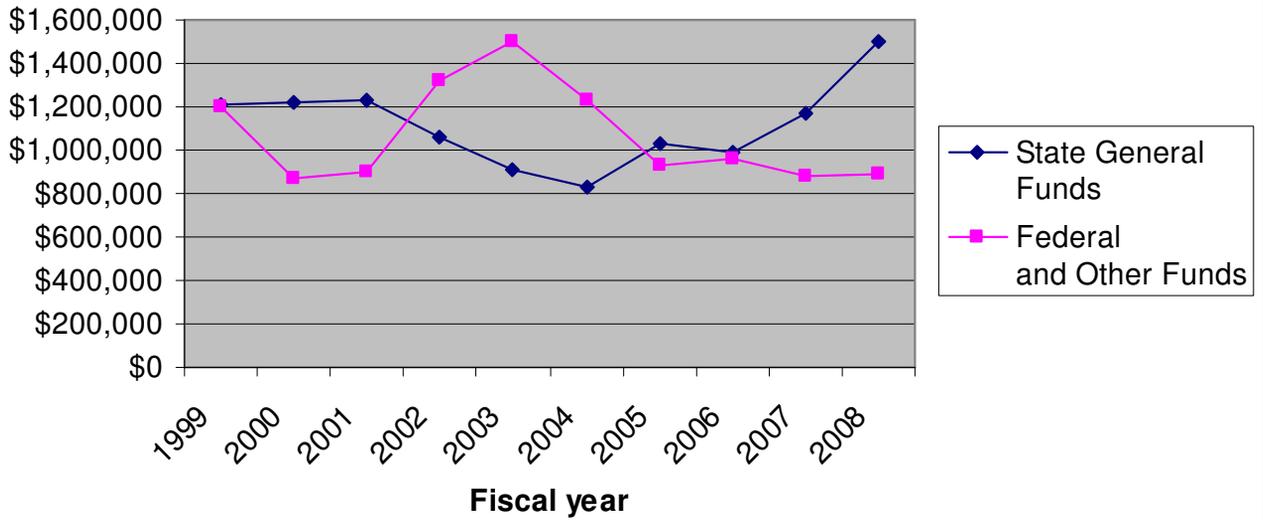
The total funding for the Iowa Civil Rights Commission for FY 2007 was **\$2,394,784**; **\$1,504,036** (including salary adjustments) was state general funding and **\$890,748** was from federal contract funding (EEOC and HUD) and other contracts/grants and reimbursements for presentations, copying, and video rentals.



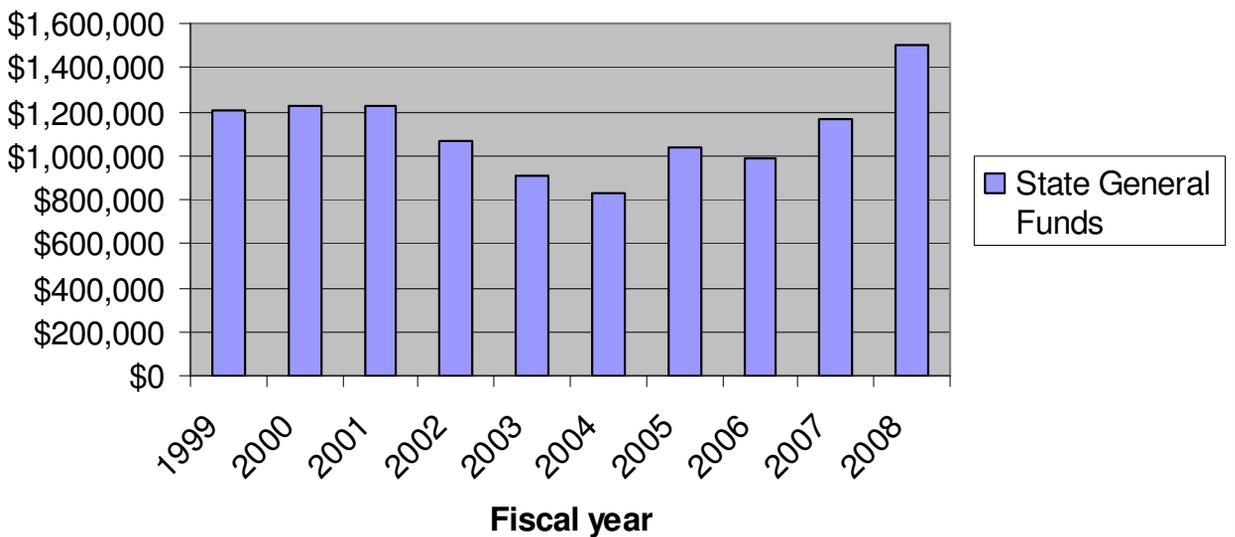
**Agency Funding
FY 1999 - 2008**



State, Federal and Other Funding FY 1999 - 2008



State General Funding FY 1999 - 2008



Commissioners FY 2008



- **Alicia Claypool, chair**
Des Moines
Appointed May 1999
- **Constance Gronstal**
Council Bluffs
Appointed May 2001
- **Timothy Tutt**
Des Moines
Appointed May 2001
- **Rick Morain**
Jefferson
Appointed May 2003
- **Nancy Witt**
Reinbeck
Appointed May 2005
- **Rich Eychaner**
Des Moines
Appointed May 2007
- **Debbie Gitchell**
Ames
Appointed May 2007

Iowa Civil Rights Commission Staff

July 1, 2007 to June 30, 2008

Ralph Rosenberg, Executive Director

CALVIN BACCAM
MELANIE BECKMAN*
EDIE BOGACZYK
ADAM BUCKLEY*
NATALIE BURNHAM
JULIA CONTE
MARCIA COVERDALE
MARY COWDREY
TIFFANIE DRAYTON
ALFRED FALCONI
ANNETTE FLAHERTY
AMBER FRICKE*
THOMAS GOOD
DON GROVE
KERRY HAINLINE
MURLEAN HALL
ROGER HALLECK
HEATHER HARMON*
MICHELE HOWARD
RICHARD IVIS**
AMANDA JAMES*
CHRIS KELLY*
GREGORY KLEIN
JASON LEHMAN*
ERIC LINDSTROM*
LARRY LOCKMAN
EMIGDIO LOPEZ-SANDERS
JESSICA MAFFITT*
STEPHANIE ODLIN
KAYLA OSEGERA
SYLVIA OWENS
DAWN PETERSON
LENA ROBISON
PAMELA ROSE
LINDA ROSS
DIANA SCHANUEL-SISLER
KARL SCHILLING
SOMMAY SOULINTHAVONG
CURT STEGER*
SARA STIBITZ
JOSHUA SWAIM*
SHERRY WILLIAMS
KARI WILLIAMSON
* Interns **Volunteer