

Iowa Civil Rights Commission

46 Years of Working Toward a State Free of Discrimination
Through Enforcement of Civil Rights Laws

Annual Report
Fiscal Year 2011



STATE OF IOWA

TERRY BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

IOWA CIVIL RIGHTS COMMISSION
BETH TOWNSEND
EXECUTIVE DIRECTOR

November 14, 2011

Governor Terry Branstad
Governor of the State of Iowa
The State Capitol
Des Moines, IA 50319

Dear Governor Branstad:

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 2011.

The mission of the Iowa Civil Rights Commission is to end discrimination within the state of Iowa. To achieve this goal, the ICRC must effectively enforce the Iowa Civil Rights Act. The ICRA will be as effective as the Commission is in processing complaints of discrimination. The ICRC undertook significant steps forward in improving the timeliness and competency by which complaints of discrimination are processed. The screening unit was increased with special emphasis on improving the quality and quantity of the analysis of the initial screening decisions. The investigative process for non-housing cases was completely overhauled. The improved process builds on the screening decision and focuses on the issues raised in that decision. The new process will help the ICRC reduce a significant backlog for non-housing cases. Additionally, we revamped the mediation program by moving to an all-volunteer mediation program. Over 20 Iowa lawyers volunteered to help the ICRC resolve complaints through alternative dispute resolution.

Our housing unit continues to grow and the number of cases filed by the ICRC increased to 142. Testing by the ICRC helps to ensure that Iowa landlords are aware of the law and how to handle prospective tenants who are disabled or have young children. Housing cases are primarily resolved through settlement that includes training of the landlords and an end to the discriminatory policy. Thus, the ICRC provides a cost-effective method of resolving issues of discrimination in housing with savings for the landlord as well as the agency.

A credible ICRC that enforces the ICRA ensures that Iowa has a diverse and inclusive workforce and a more welcoming business environment as well as ensuring that all Iowans have equal access to housing and services.

Beth Townsend,
Executive Director

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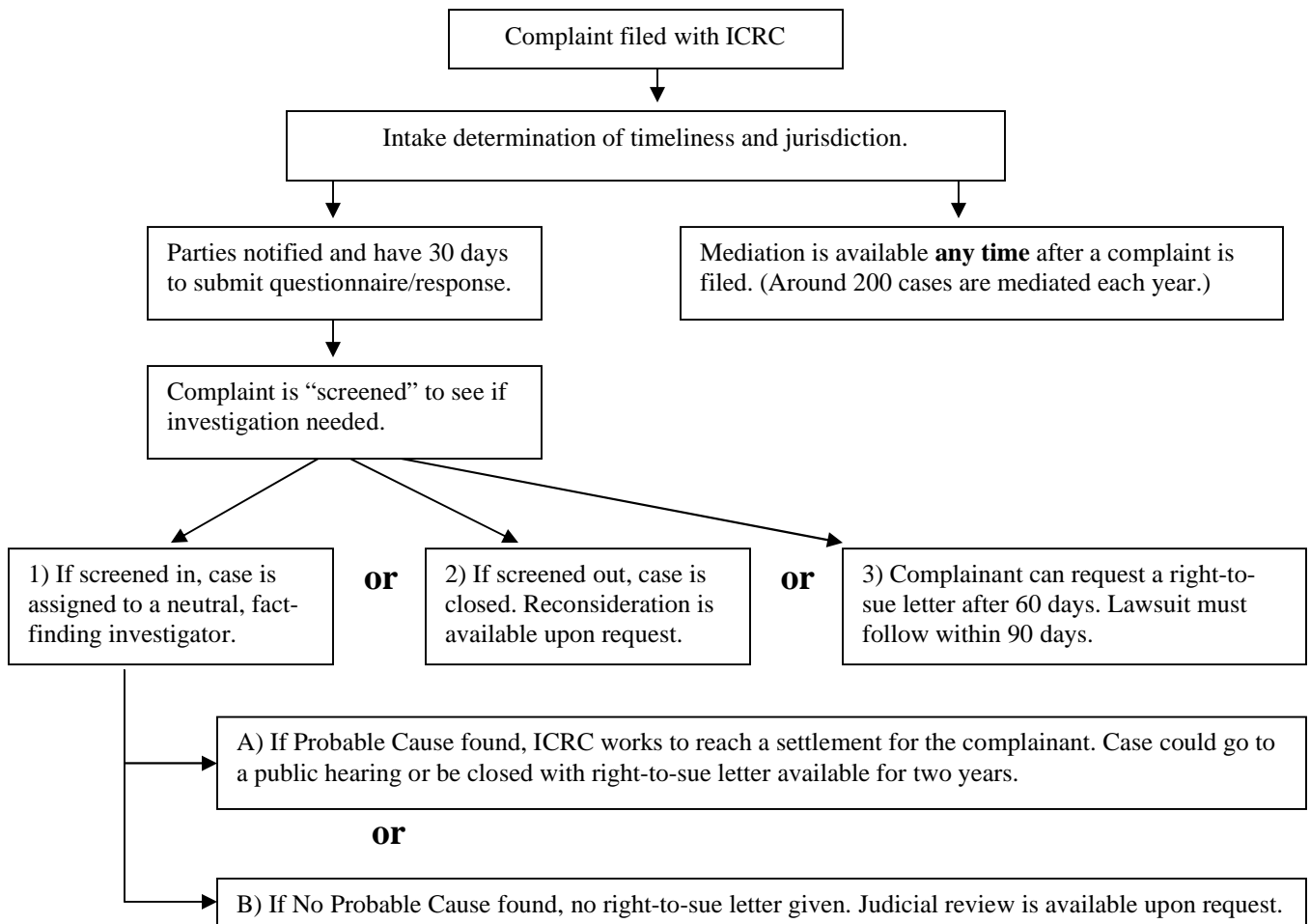
About the Iowa Civil Rights Commission

The Iowa Civil Rights Commission is a neutral, fact-finding, administrative agency that enforces the “Iowa Civil Rights Act of 1965.” The Commission addresses discrimination in the following ways:

- Case resolution through intake, screening, mediation, investigation, conciliation, and public hearings
- Conducting state-wide public education and training programs to prevent and respond to discrimination
- Testing to determine the existence or extent of discrimination in Iowa

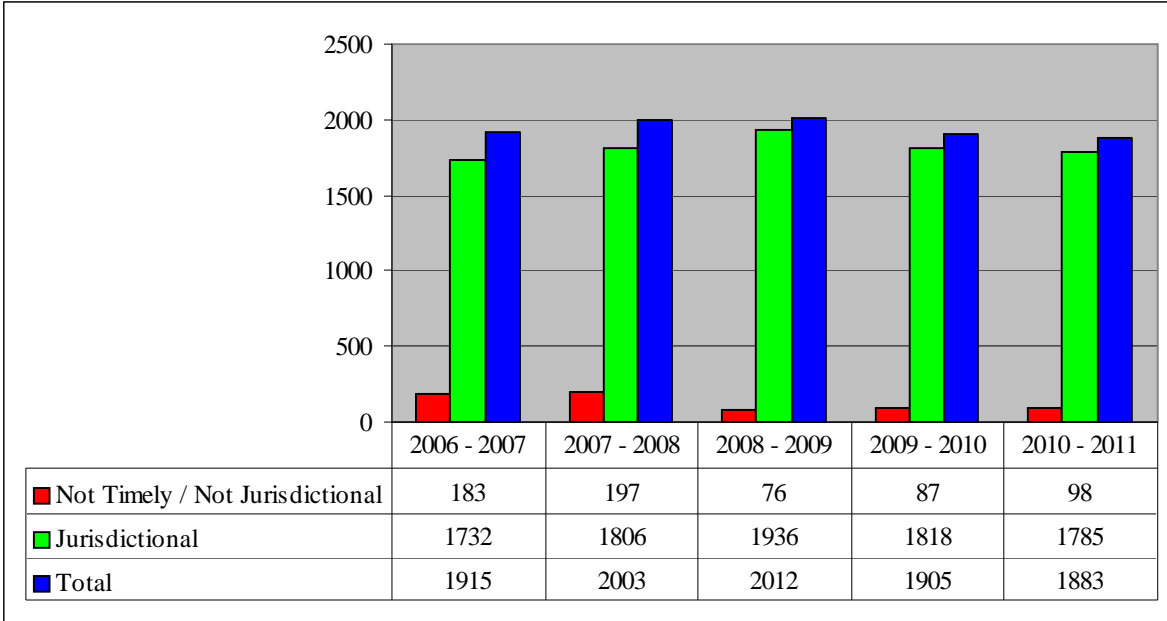
The Iowa Civil Rights Act of 1965 prohibits discrimination in the areas of employment, housing, credit, public accommodations (public services and buildings), and education. Discrimination and harassment are illegal if based on actual or perceived race, skin color, national origin, religion, creed, sex, pregnancy, sexual orientation, gender identity, physical disability, mental disability, age (in employment and credit), familial status (in housing and credit), or marital status (in credit).

The Discrimination Complaint Process

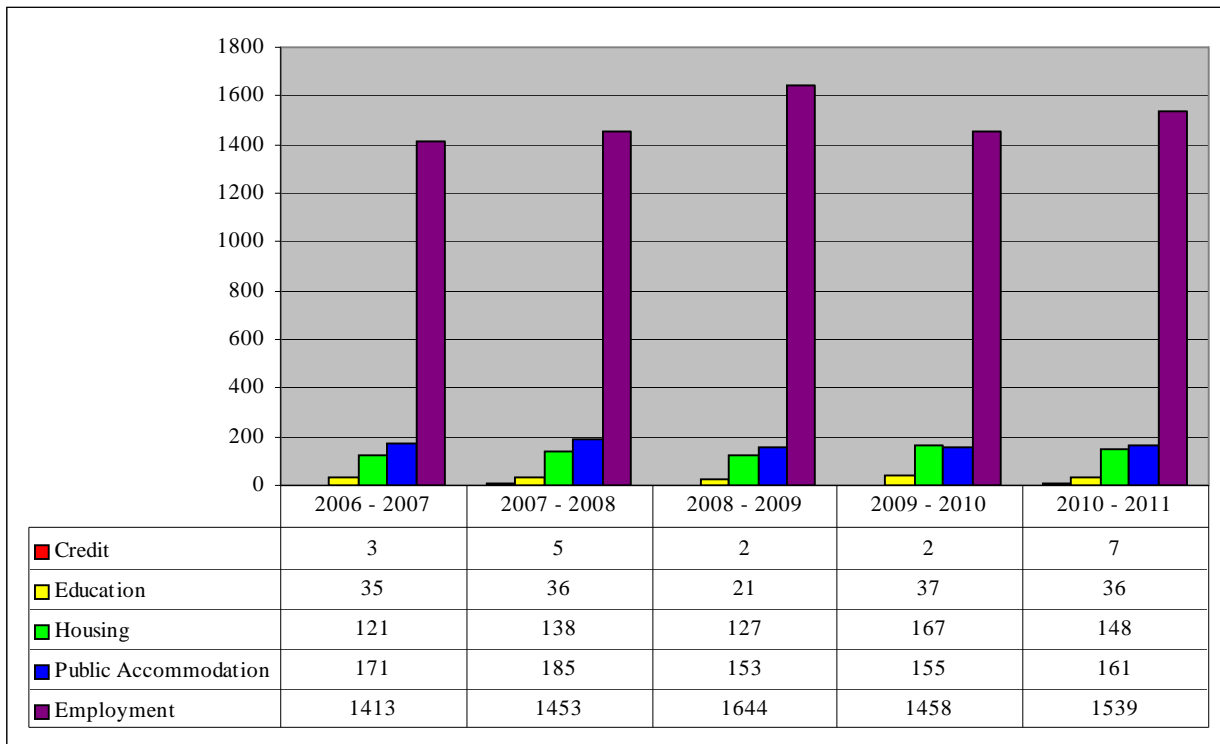


Processing of Discrimination Complaints

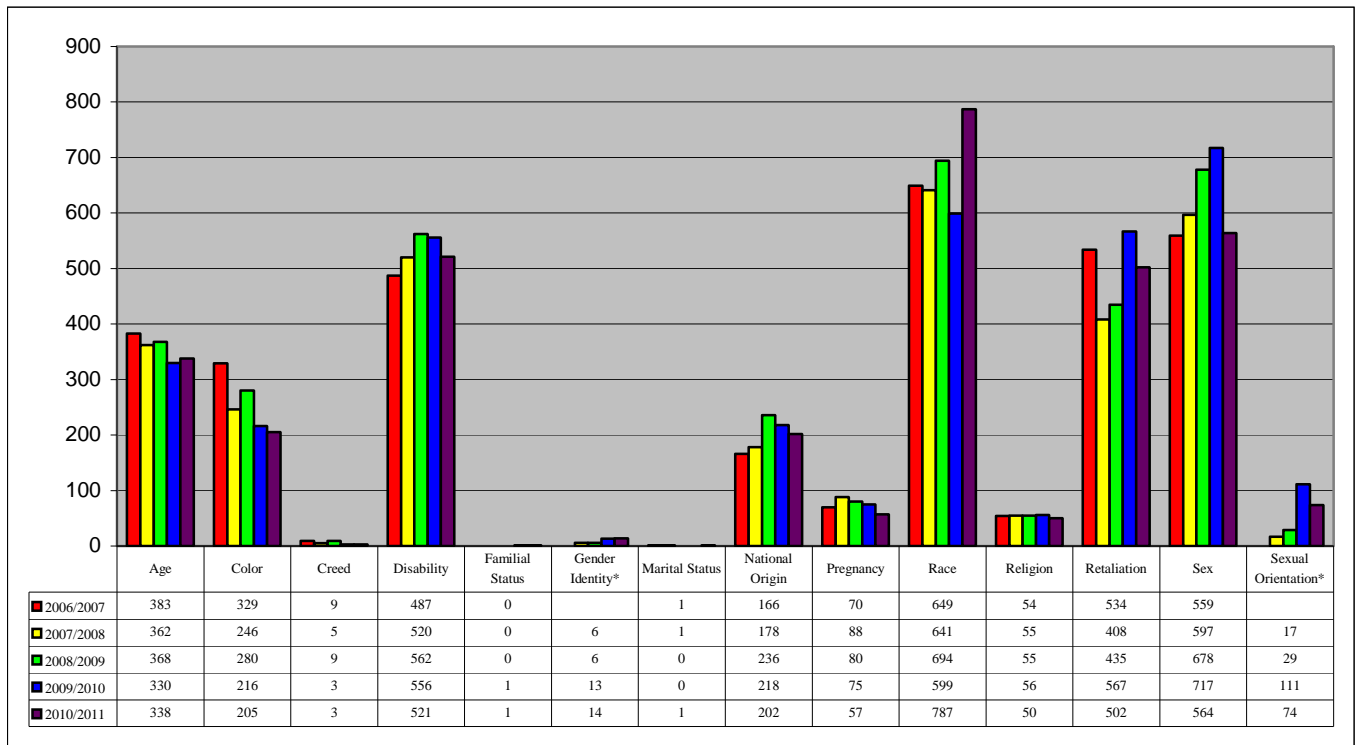
During FY2011, the Commission received **1,883** discrimination cases. Of those complaints, **98** complaints either did not meet the jurisdictional requirements or the 300-day time limit since the last alleged incident took place. The Commission processed **1,785** cases.



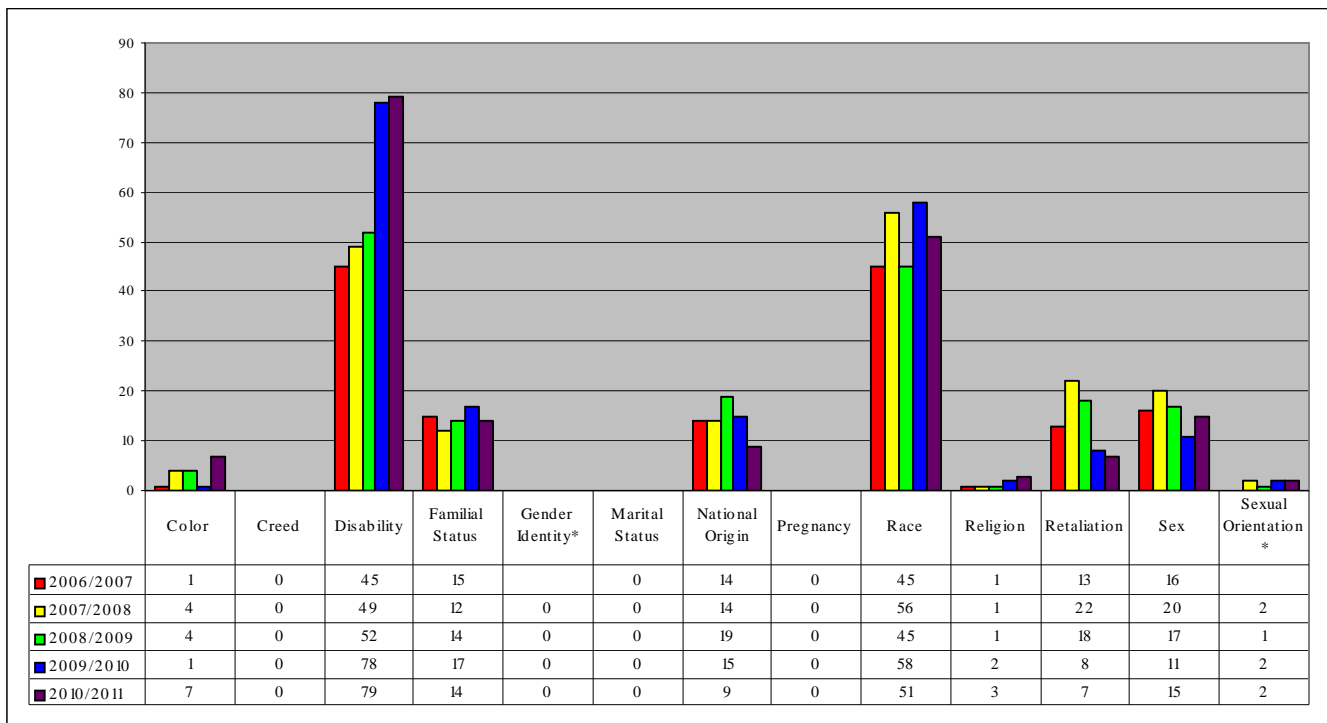
Cases Docketed by Area and Fiscal Year



Cases Docketed in Non-Housing Cases by Basis



Cases Docketed in Housing by Basis



* Gender Identity and Sexual Orientation were added to the Iowa Code as protected bases on July 1, 2007.

Filings by County

The Iowa Civil Rights Commission received complaints from **90** of the 99 counties.

County	Filings
Adair	1
Adams	1
Allamakee	4
Appanoose	1
Audubon	1
Benton	8
Black Hawk	161
Boone	8
Bremer	10
Buchanan	1
Buena Vista	7
Butler	3
Calhoun	1
Carroll	8
Cass	6
Cedar	8
Cerro Gordo	11
Cherokee	1
Chickasaw	2
Clarke	3
Clay	4
Clayton	1
Clinton	21
Crawford	2
Dallas	15
Davis	1
Decatur	4
Delaware	5
Des Moines	24
Dickinson	6
Dubuque	46
Emmet	1
Fayette	6

County	Filings
Floyd	7
Franklin	7
Fremont	1
Greene	1
Grundy	0
Guthrie	4
Hamilton	6
Hancock	4
Hardin	5
Harrison	1
Henry	10
Howard	1
Humboldt	2
Ida	0
Iowa	5
Jackson	4
Jasper	20
Jefferson	6
Johnson	92
Jones	3
Keokuk	0
Kossuth	3
Lee	17
Linn	121
Louisa	4
Lucas	0
Lyon	2
Madison	0
Mahaska	11
Marion	6
Marshall	21
Mills	2
Mitchell	3

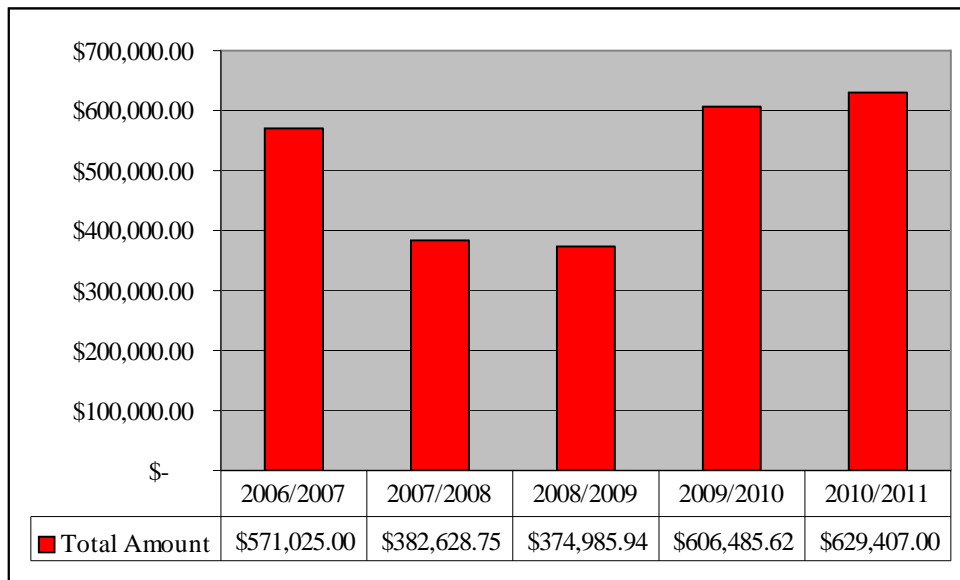
County	Filings
Monona	0
Monroe	4
Montgomery	4
Muscatine	14
O'Brien	3
Osceola	2
Page	4
Palo Alto	1
Plymouth	10
Pocahontas	2
Polk	771
Pottawattamie	59
Poweshiek	6
Ringgold	0
Sac	1
Scott	106
Shelby	2
Sioux	10
Story	51
Tama	2
Taylor	1
Union	10
Van Buren	0
Wapello	28
Warren	9
Washington	9
Wayne	1
Webster	27
Winnebago	9
Winneshiek	0
Woodbury	73
Worth	2
Wright	6

Mediation

In order to achieve earlier and cost-effective resolutions of cases, the mediation program was revamped to provide greater opportunities for parties to utilize mediation services. Mediation services are available any time after a complaint is filed. Mediations can be conducted throughout the state of Iowa. Onsite mediations encourage Complainants and Respondents to resolve disputes within a limited time frame, which significantly decreases the length of time expended in case resolution and reduces the costs associated with litigation. Both parties must be willing to resolve the dispute. If mediation succeeds, the case is closed. If mediation fails, the case is moved on to investigation. During this fiscal year, the Commission mediated **87** cases.

A partnership with local human and civil rights commissions throughout the state allows the Iowa Civil Rights Commission to utilize space at the local commissions' offices to conduct mediations. This partnership helps reduce any travel hardship for Complainants and Respondents. When local commission offices are not available, the Commission uses public libraries so that the mediations can take place on neutral ground. The mediator's role is as a neutral third party who facilitates the discussions between the Complainant and Respondent. The purpose is to assist the parties to reach a compromise without having to go through a full investigation.

Total Value of All Mediation Settlements



Conciliation

Conciliation occurs after a finding of probable cause has been made. Until this point, the Iowa Civil Rights Commission is a neutral, fact finding agency. Conciliation is the first point in the process that the Commission becomes an advocate to resolve the discrimination that has been found through the investigation. This can be done by determining and implementing the appropriate remedies to address the situation and make Complainant whole. During this fiscal year, there were **18** cases assigned to conciliation; with **15** cases successful conciliations.

Cases Handled by Assistant Attorney General

State ex rel Henderson v. Des Moines Municipal Housing Agency, (Ia. App. 2010)

This is the most recent iteration of a case which the State originally filed in 2005 on behalf of a resident of Des Moines public housing who was denied the reasonable accommodation of an exception to the pet rules which restricted the size of a dog, so that she could have her assistance/companion dog. The district court directed a verdict for the housing authority, from which the State appealed. In reversing the trial court, the court of appeals held that the person with a disability is not required to show that the accommodation alleviates the disability, itself. The purpose of the requested accommodation is to afford the person equal opportunity to use and enjoy a dwelling, and the state's evidence presented a jury question that the requested accommodation of having her assistance animal alleviated the effects of her post-traumatic stress disorder such that Henderson could feel secure and enjoy a basic sense of well-being. The court of appeals addressed the issue of the lack of certification of the assistance animal, citing decisions under the Fair Housing Act to the effect that such a requirement has no basis in law or fact. Whether a companion animal is an appropriate and reasonable accommodation for a disability is a question of fact, not a matter of law.

Kern v. Iowa Civil Rights Commission, (Ia. App. 2010)

Following the denial of her petition for judicial review, Kern appealed the finding to the Iowa Court of Appeals. Kern asserted five categories of error by the Commission, all stemming from the fact that, although the employer stated that Kern's termination was due solely on a reduction of force and not related to misconduct, the investigator probed for evidence of poor work performance and the administrative law judge discussed performance in her order finding "no probable cause". Although the administrative law judge discussed performance, she did not find that performance was a consideration in the personnel action. Instead, the "no probable cause" determination was based upon the shifting focus of the business, with consequential staffing needs. The Court found that the substantial evidence supported this finding.

State ex rel Miller and Penniman v. Cumberland House Associates, et al, Scott County, No. 115296

The Civil Rights Commission found probable cause in these two cases involving allegations of sexual harassment by a maintenance director employed by Newbury Management to oversee a housing complex for low-income elderly at Canterbury House in Bettendorf, Ia. Prior to trial, the matter was settled on terms which are confidential. Of interest to management companies is that any attempt to claim as an affirmative defense the tenant(s) failure to bring the alleged harassment to the attention of upper management is impaired by the fact that few, if any, such companies have established anti-harassment policies or grievance policies in place for their tenants or residents.

State ex rel Claypool v. A.B. Property Management, Johnson County, No. EQCV072236

An action for injunctive relief and remedial measures was filed in Johnson County on the basis of a representation by the agent of a property management company that a prospective tenant should not look at an apartment in the southeast sector of Iowa City because of the racial make-up of the area. The agent encouraged the prospective tenant to choose another neighborhood in which to live. The defendants will obtain training in fair housing law, as part of the settlement agreement.

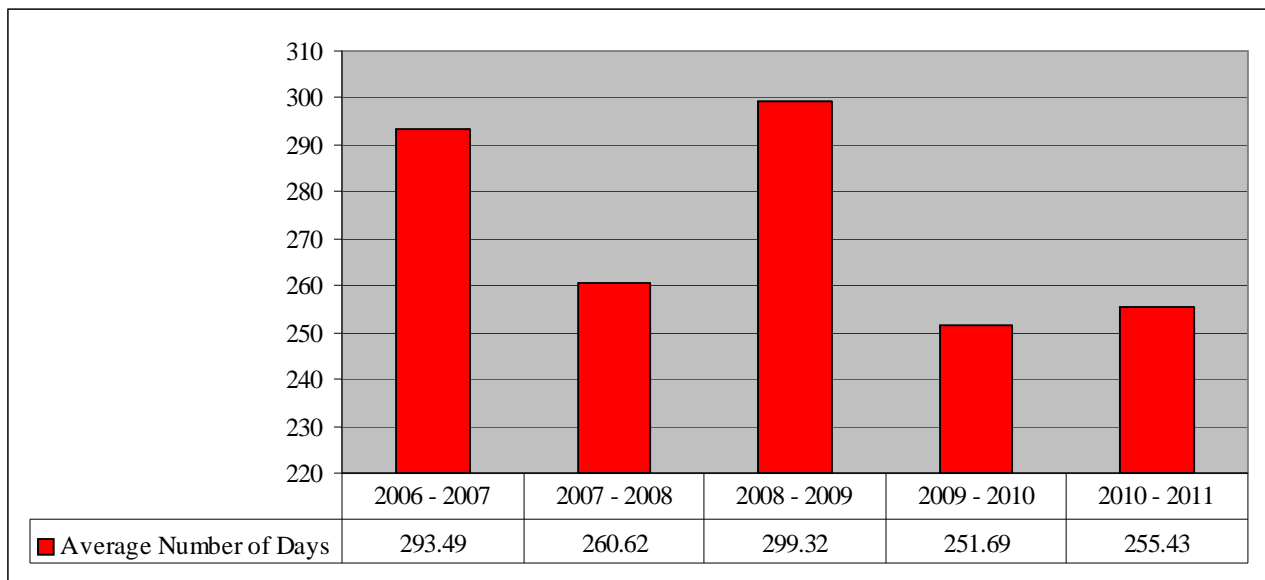
Jones v. Sioux City Paint

The Civil Rights Commission found probable cause exists to support allegations of age discrimination. Sioux City Paint terminated the group health insurance coverage for Jones when he reached the age of Medicare eligibility. The investigation yielded evidence that the employer had relied upon guidance that was tailored to the jurisdictional reach of the ADEA---employers of 20 or more employees---without consideration that the Iowa Civil Rights Act applies to smaller employers, and prohibits consideration of age in all employment-related areas, including benefits. The matter was resolved for, among other items, the refund to Mr. Jones of health insurance premiums which he incurred for his wife, who had been on his family plan through his employment.

Henry, Iowa Civil Rights Commission v. Rent-A-Center, DIA 10ICRC002

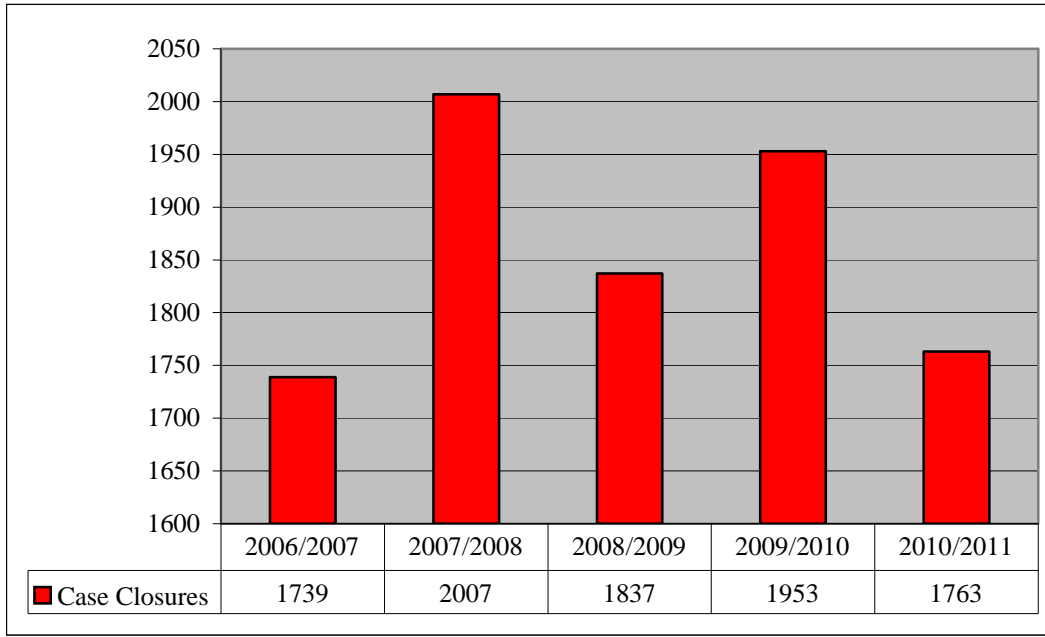
The Iowa Civil Rights Commission found Probable Cause exists to support allegations of sex discrimination (pregnancy) and referred this complaint for a contested case hearing. The investigation yielded evidence that the employer has a policy of not accommodating restrictions related to pregnancy and, based upon Nicole Henry’s inability to perform heavy lifting, placed her on a leave of absence. Employees of RAC are subject to a mutual agreement to arbitrate any claims and RAC challenged the jurisdiction of the Commission to proceed with its hearing. An administrative law judge with the Dept. of Inspections and Appeals held that a contested case hearing is a proceeding to determine the claims of the Civil Rights Commission rather than the complainant, given the scheme set forth in the Act in which the executive director forwards the complaint for hearing, the Commission’s attorney presents the case, and the Commission bears the burden of proof. As the Commission was not a signatory on an agreement to arbitrate, it could not be compelled to arbitrate its claim. The Commission adopted this proposed ruling; it has been appealed to the district court under the provisions of Iowa Code Ch. 17A.

Average Number of Days to Process a Case

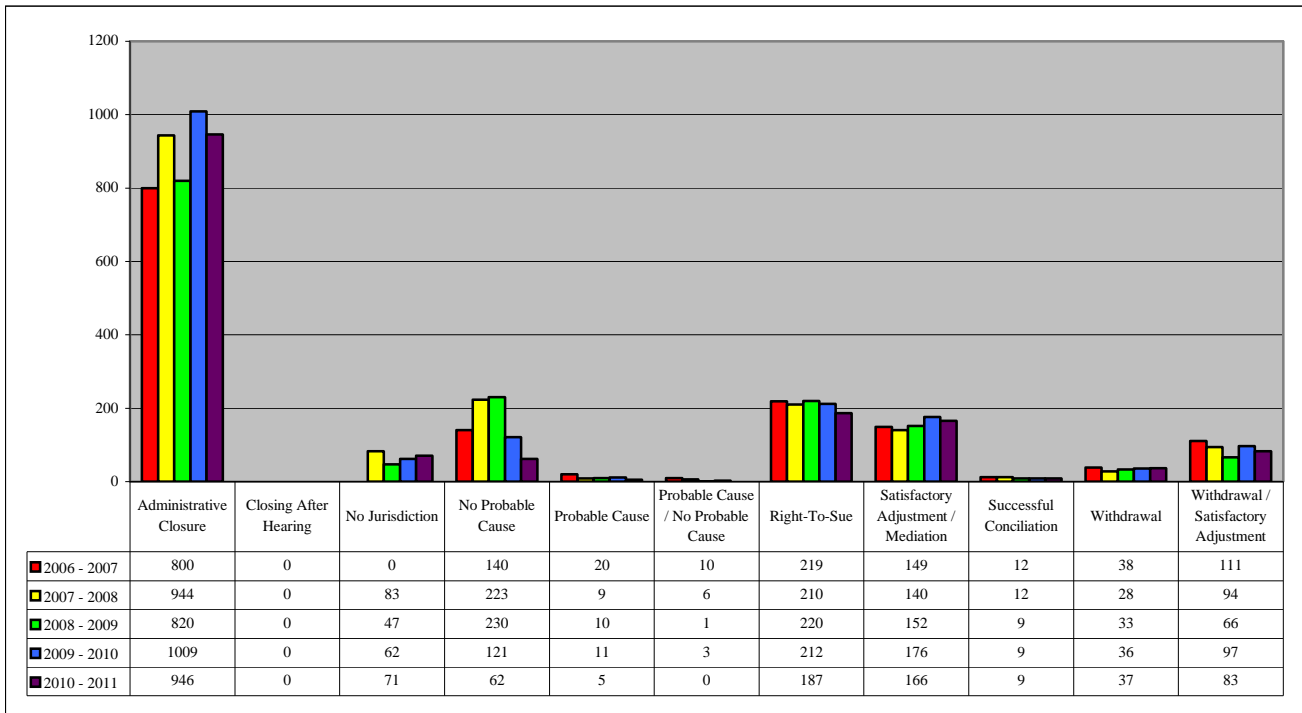


Case Closures

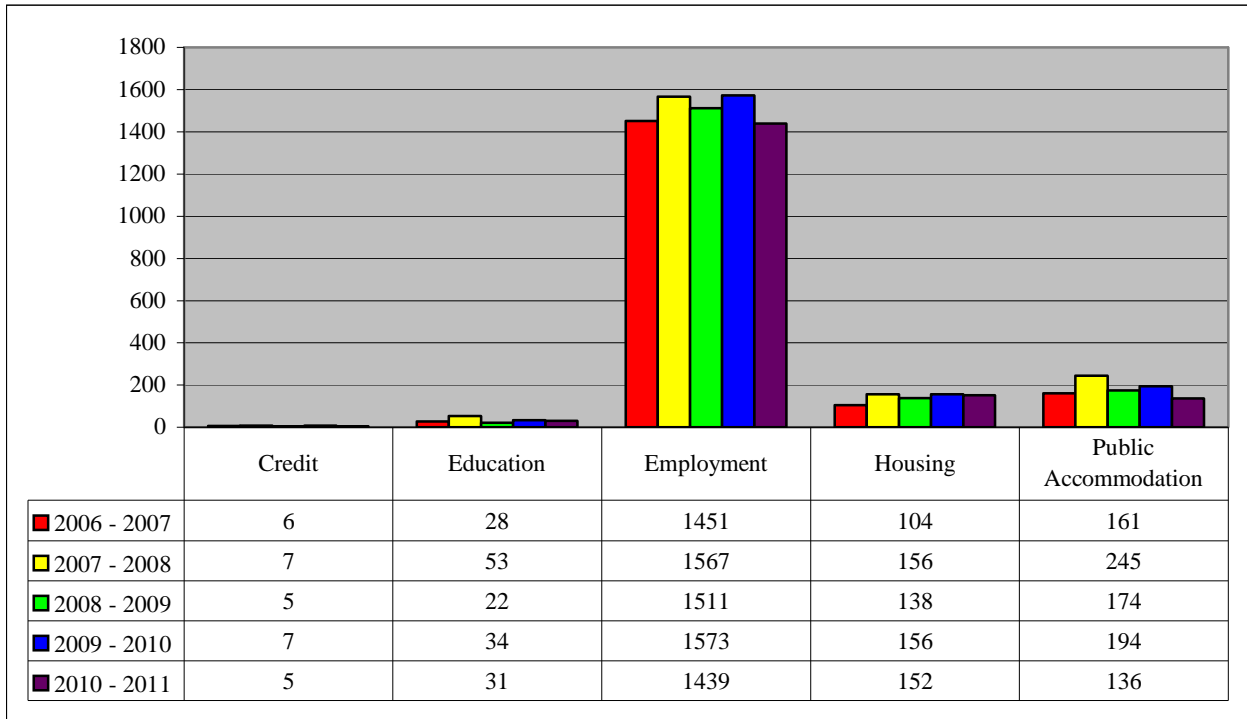
During the year, the Commission closed **1,763 cases**. Of the 1,763 case closures during the fiscal year, the largest category was “does not warrant further investigation / administrative closure.” This was followed by right-to-sue, satisfactory adjustment / mediated settlement, withdrawn / satisfactory adjustment, and non-jurisdictional.



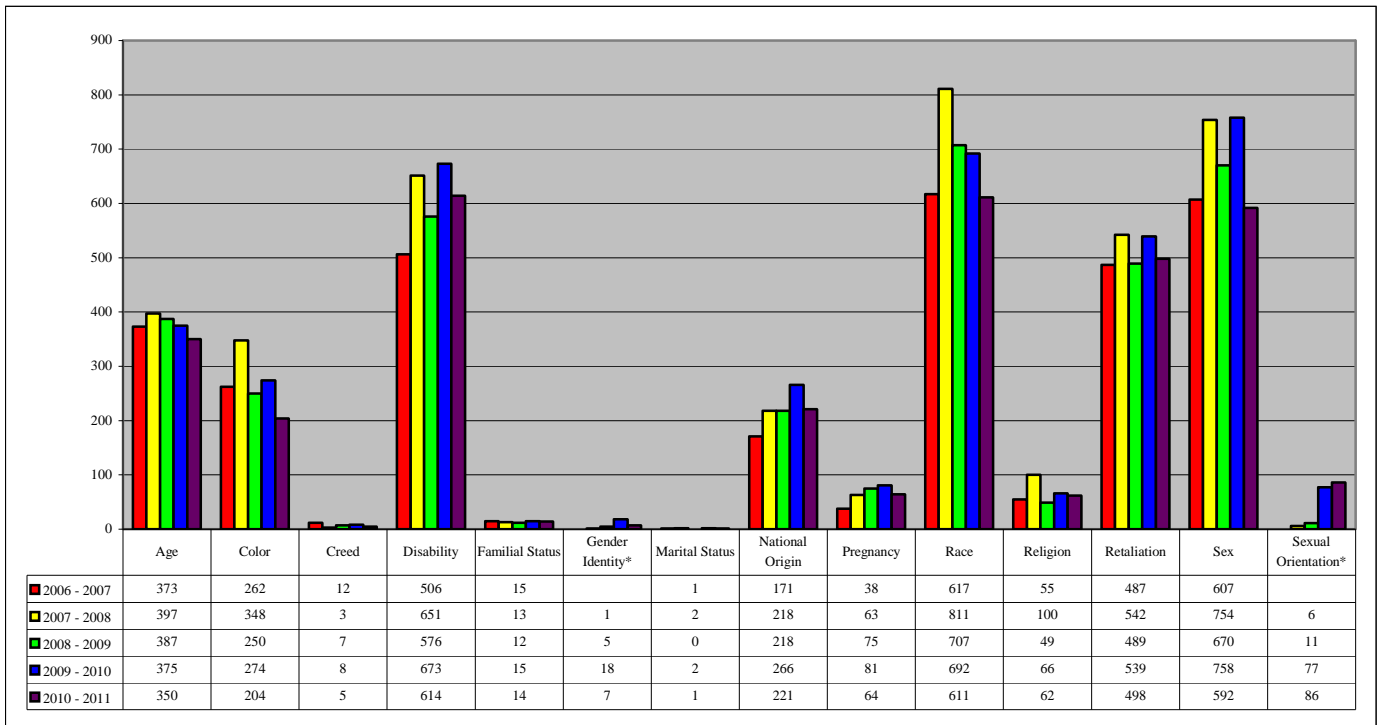
Case Closures by Type



Case Closures by Area



Case Closures by Basis



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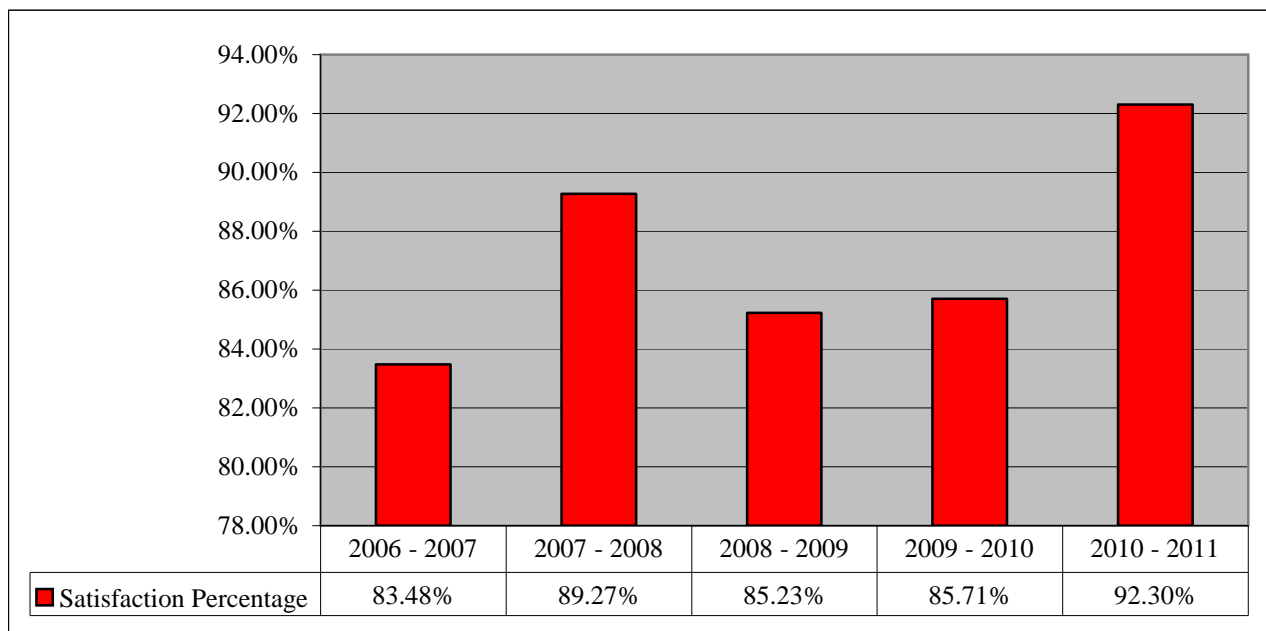
Education, Outreach, and Training

The Commission’s educational programs teach people about their rights under the law, how to prevent discrimination, and why diversity is important in Iowa. For fiscal year 2011, staff and VISTA members with the Iowa Civil Rights Commission participated in **180 presentations / outreach events**, reaching **18,758 participants** and distributing **30,276 items**. The largest outreach event was a booth at the Iowa State Fair, an eleven-day event that reached over 10,000 people.

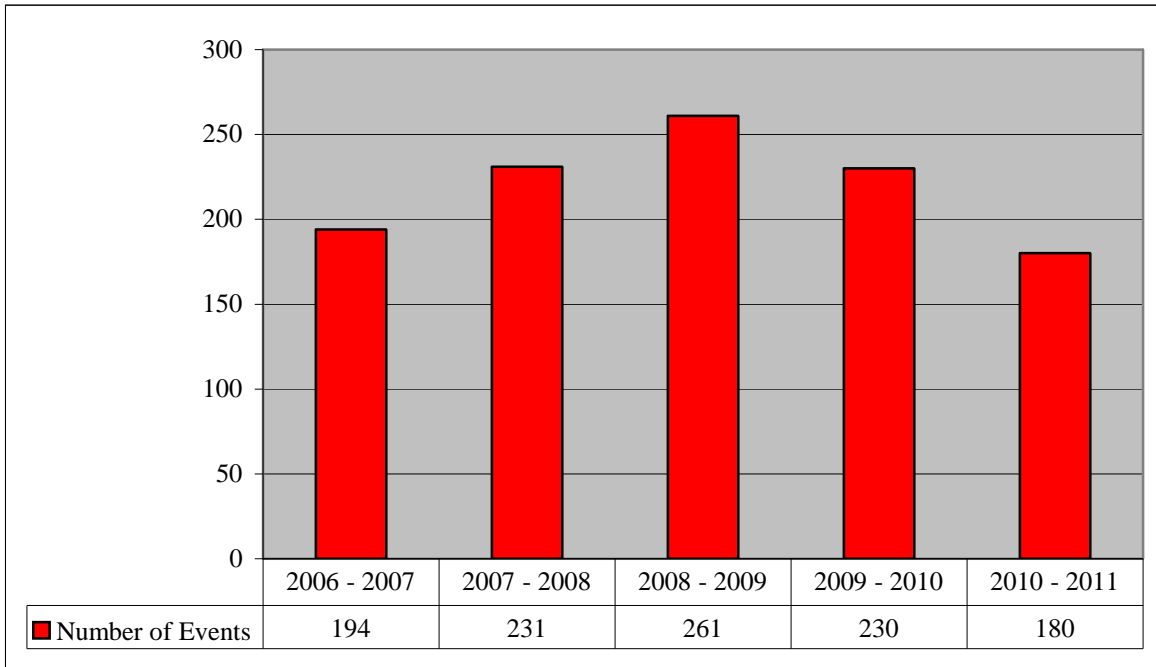
The Commission sponsors the Iowa Human & Civil Rights VISTA Project. VISTA members based out of the Commission’s offices supported community partnerships, researched and applied for grants and other funding sources, created educational resources, and coordinated many of the commission’s education & outreach activities. The Commission also placed VISTA members at sites in Ames, Cedar Falls, Cedar Rapids, Council Bluffs, Davenport, Des Moines (multiple agencies), Dubuque, Fort Dodge, Iowa City, Sioux City, and Waterloo.

The Commission’s website, www.state.ia.us/government/crc, received an average of more than **5,164 hits** monthly, from an average of **2,067 individuals** per month. The Commission enhanced its online presence on both Facebook (<http://www.facebook.com/pages/Des-Moines-IA/Iowa-Civil-Rights-Commission/80313175514>) and Twitter (www.twitter.com/iacivilrights). **944 individuals** like the Commission’s Facebook page and **969 individuals** follow the Commission’s Twitter account.

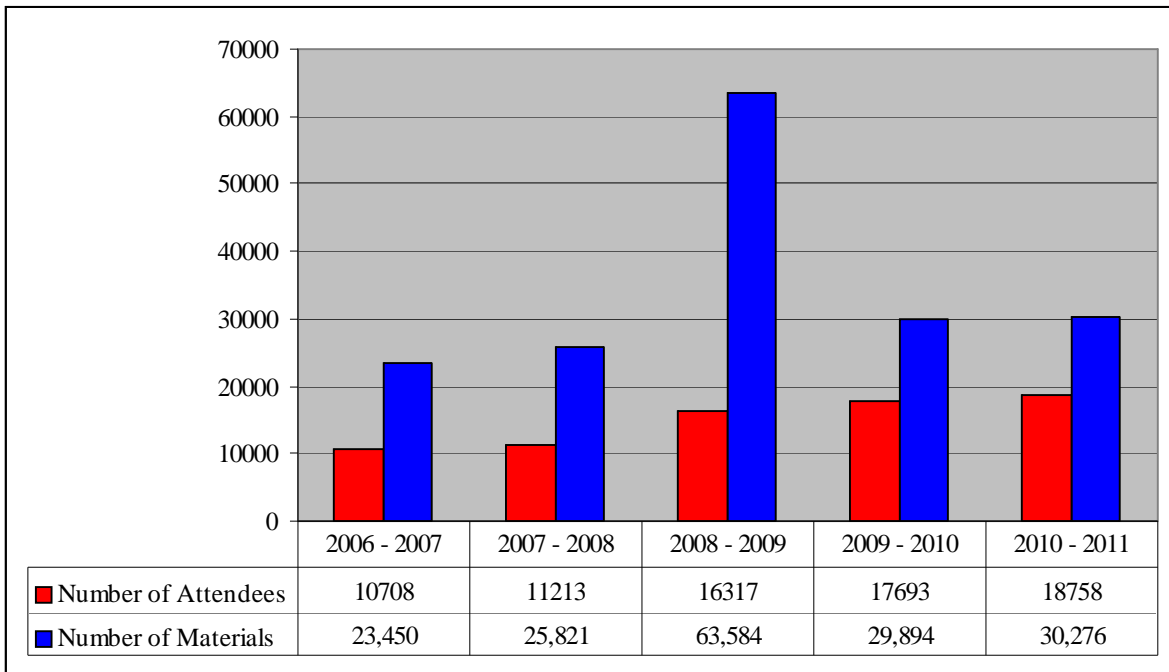
Percentage of Presentation Attendees Indicating Satisfaction with Education Services



Number of Presentations and Outreach Events



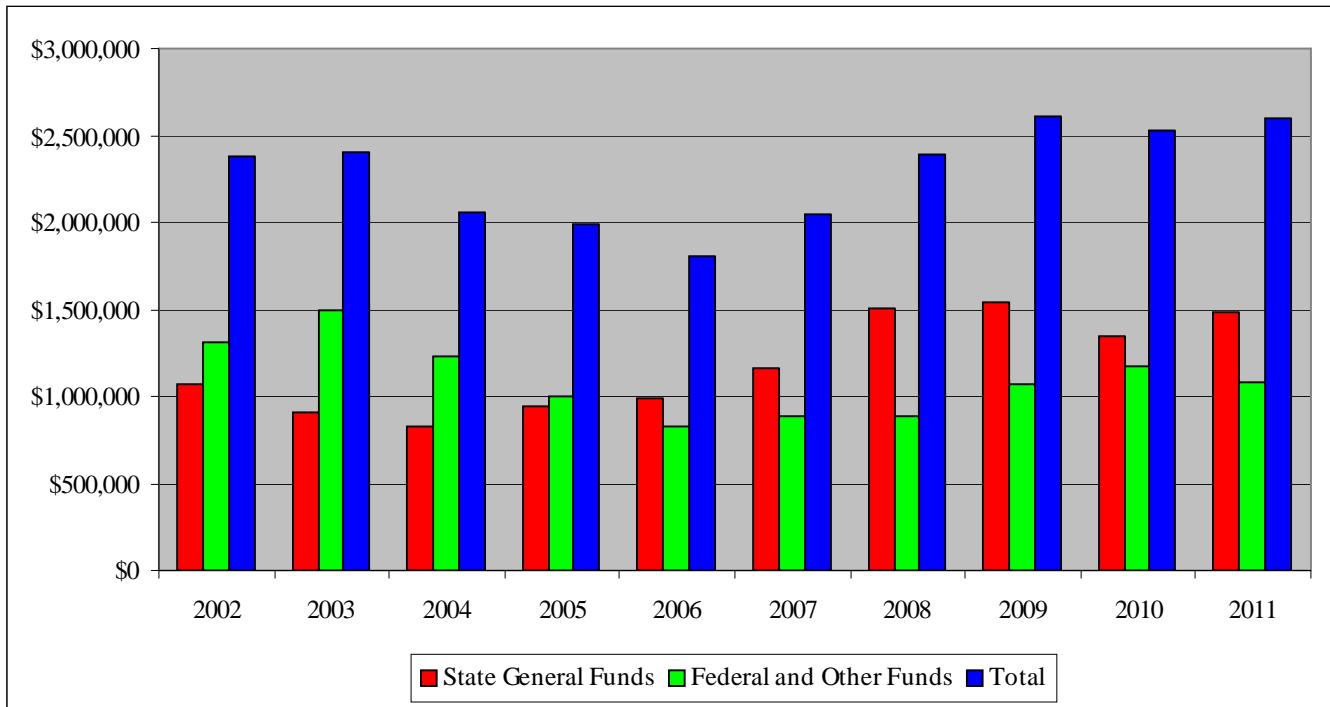
Number of Attendees at Events and Materials Distributed at Those Events



Fiscal Year 2011 Income

- The total funding for the Iowa Civil Rights Commission for FY 2011 was **\$2,601,293**.
- **\$1,479,861.00** (including salary adjustments and budget cuts) was state general funding
- **\$1,041,567.00** was from federal contract funding (EEOC and HUD) and other contracts and grants
- **\$35,000** was for reimbursement for presentations and copying

Agency Funding Fiscal Year 2002 – Fiscal Year 2011



Iowa Civil Rights Commission Staff

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