

Compliance

Consequences of Not Funding this Program

Discrimination, segregation or separation, and loss of equal opportunities in employment, housing, and public accommodations. Parties to the complaint do not have an administrative remedy to resolve allegations of discrimination.

<u>Statutory Basis</u>	<u>Mandatory v. Discretionary</u>	<u>MOE/Match Rqt.</u>	<u>Priority Level</u>
General K.S.A. 44-1005	Mandatory	No	1

Program Goals

- A. To provide prompt, professional and appropriate services to all citizens who contact the agency for assistance and maintain an effective and efficient complaint intake service to reduce or eliminate non-jurisdictional and frivolous complaints.
- B. To provide the opportunity for the early resolution through mediation of every complaint filed.
- C. On all cases not resolved by mediation, to conduct a prompt and thorough investigation of all allegations and to render a timely and appropriate determination that is supported by evidence of either probable cause or no probable cause in all cases submitted to Commissioners for such determination.

Program History

Kansas Statutes Annotated 44-1004 provides the Kansas Human Rights Commission with the power to investigate complaints of discrimination based on race, color, ancestry, religion, sex, national origin, genetic testing (employment only), and disability, in the areas of employment, housing, and public accommodations. Effective January 1, 1992, the Commission was authorized to also investigate complaints of housing discrimination based upon familial status. The Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) authorizes the Commission to investigate age-based employment discrimination complaints.

In 1972, the Kansas Legislature gave the Commission the authority to process complaints alleging sex discrimination. In 1974, physical handicap was added, which had the effect of substantially expanding the Commission's coverage. In 1983, the Legislature passed the Kansas Age Discrimination in Employment Act, which gave the Commission the authority to process complaints of age discrimination in employment for persons between the ages of 40 to 70. At that time, the Federal Age Discrimination in Employment Act also covered persons from 40 to 70 years of age. However, in 1986, the Federal Law was changed in that the upper age limit of 70 was removed. In 1987, the Commission supported legislative efforts to make the same change in the Kansas law, i.e., to remove the upper age of 70. As a result of these efforts, the 1988 Kansas Legislature amended the age act to remove the age 70 limit. The amendments also changed the lower age coverage from 40 years to 18 years. Subsequently, House Bill 2771 of the 2008 Legislative Session changed the definition of age from the previous "18 or more years" to the current "40 or more years". Effective May 24, 1984, the Legislature authorized the Commission to award damages for mental pain, suffering, and humiliation up to an amount of \$2,000 where appropriate under the Kansas Age Discrimination in Employment Act, and in cases of employment or public accommodations discrimination under the Kansas Act Against Discrimination.

The 1991 Legislature made the most extensive and significant amendments to the Kansas Act Against Discrimination since the original enactment of the Kansas Act in 1953. The Kansas Act Against Discrimination was amended in an effort to make it similar to two federal laws, the Americans with Disabilities Act of 1990 and the Fair Housing Amendments Act of 1988. Other amendments were also made to prohibit discrimination in membership practices of nonprofit, recreational or social associations, or corporations, on the basis of race, religion, sex, color, disability, national origin, or ancestry, if the organization has 100 or more members and provides regular meal service and receives payment for dues, and use of facilities. Religious or private fraternal and benevolent associations or corporations are excluded from this membership provision. These amendments also extended protection against discrimination to persons with a disability (prior law covered physical handicap) in the areas of employment, public accommodations, and housing, and to persons on the basis of familial status in the area of housing. Familial status is defined as having children less than 18 years of age domiciled with a parent or another person having legal custody of the children. The employment and public accommodations amendments were effective July 1, 1991, while the housing amendments became effective January 1, 1992.

Program History, *continued*

In the 1992 Legislative session, further amendments were made to the housing discrimination section of the KAAD, which provided expanded damage and penalty awards when housing discrimination is proven. The 1995 Legislature amended the KAAD to require that complaints filed with the Kansas Human Rights Commission articulate in writing a statement of a prima facie case of discrimination pursuant to an established legal theory of discrimination. The Legislature also enacted statutory provisions authorizing the dismissal of complaints pending for more than 300 days under certain circumstances with a resulting right to assert the complaint in court action. The 1999 Legislature added restrictions on the use of genetic testing for pre-employment use.

Substitute for Senate Bill 77 of the 2005 Legislative Session became effective July 1, 2005, and prohibited law enforcement officers or agencies from relying, as the sole factor, on race, ethnicity, national origin, gender, or religious dress in selecting which individuals to subject to routine traffic stops, or in deciding upon the scope and substance of law enforcement activity following the initial routine traffic stop. Substitute for Senate Bill 77 was codified in K.S.A. 22-4606 through K.S.A. 22-4611. The law also provided that a representative from the Commission shall serve on a 15-member task force appointed by the governor. The governor's task force on racial profiling shall work in partnership with local and state law enforcement agencies to review current policies and make recommendations for future policies and procedures statewide for the full implementation of the provisions of K.S.A. 2006 Supp. 22-4606 through 22-4611, and amendments thereto. The law mandated that the Commission receive, review, and investigate, if necessary, complaints of racial and other profiling. Subsequently, SB 93 of the 2011 Legislative Session transferred the filing and investigation, if necessary, of profiling complaints from the Kansas Human Rights Commission to the Office of the Attorney General. The law became effective upon its publication in the Kansas Register on May 26, 2011.

House Bill 2582 of the 2006 Legislative Session amended the Kansas Act Against Discrimination to prohibit discrimination in homeowners associations' restrictive covenants based on race, religion, color, sex, disability, familial status, national origin, and ancestry. If the homeowners association fails to delete prohibited language, the Commission may bring action against the homeowners association for injunctive relief. The 2012 Legislative Session amended the disability provisions of K.S.A. 44-1002 and K.S.A. 44-1006 to bring the Kansas Act Against Discrimination into alignment with the federal Americans with Disabilities Act Amendments Act.

In August 2020, the Commission Board voted to concur with the U.S. Supreme Court ruling in *Bostock v. Clayton County, Georgia*, which determined that Title VII's "sex" discrimination provisions prohibit employment discrimination on the basis of sexual orientation and transgender status. Because State of Kansas court rulings hold that federal court rulings are persuasive on the interpretation of the Kansas Act Against Discrimination, the U.S. Supreme Court ruling in *Bostock* is persuasive on the same prohibitions against "sex" discrimination by the Kansas Act Against Discrimination and "sex" is used uniformly in the Kansas Act Against Discrimination antidiscrimination provisions in employment, housing, and public accommodations. As such, the Kansas Human Rights Commission began accepting complaints of discrimination in employment, housing, and public accommodations based on "sex" inclusive of sexual orientation and gender identity.

The Kansas Act Against Discrimination has been declared equivalent to Title VII of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act of 1967 as amended, Title VIII of the Civil Rights Act of 1968 as amended, and the Genetic Information Non-Discrimination Act (GINA). Because of this equivalency determination, the Commission can enter into contractual agreements with the Equal Employment Opportunity Commission (EEOC), which enforces comparable laws at the federal level.

Kansas Human Rights Commission

Performance Measures

<i>Outcome Measures</i>	<i>Goal</i>	<i>FY 2019 Actuals</i>	<i>FY 2020 Actuals</i>	<i>FY 2021 Actuals</i>	<i>FY 2022 Previous Est.</i>	<i>FY 2022 Actuals</i>	<i>FY 2023 Est.</i>	<i>FY 2024 Est.</i>	<i>3- yr. Avg.</i>
1. Complaints Clearance Rate	A, C	97%	104%	100%	103%	102%	102%	101%	102%
2. Case Processing Time (in months)	C	9.97	8.29	9.31	9.00	9.73	9.28	9.15	9.11
3. Average SGF provided to Kansas Legal Services / Midland Mediation per case brokered through KLS / MM	B, C	\$ -	\$ -	\$ 280.00	\$ -	\$ 289.00	\$ 258.00	\$ 251.00	\$ 189.67

Performance Measures, continued

<i>Output Measures</i>	<i>Goal</i>	<i>FY 2019 Actuals</i>	<i>FY 2020 Actuals</i>	<i>FY 2021 Actuals</i>	<i>FY 2022 Previous Est.</i>	<i>FY 2022 Actuals</i>	<i>FY 2023 Est.</i>	<i>FY 2024 Est.</i>	<i>3- yr. Avg.</i>
4. Number of Complaints Filed	A	1,054	911	951	875	799	900	915	887
5. Number of Complaints Closed	C	1,019	943	952	900	814	920	925	903

Funding

<i>Funding Source</i>	<i>FY 2019 Actuals</i>	<i>FY 2020 Actuals</i>	<i>FY 2021 Actuals</i>	<i>FY 2022 Approved</i>	<i>FY 2022 Actuals</i>	<i>FY 2023 Est.</i>	<i>FY 2024 Est.</i>	<i>3-yr. Avg.</i>
State General Fund	\$ 1,045,633	\$ 1,111,407	\$ 1,101,016	\$ 1,123,823	\$ 1,043,736	\$ 1,095,413	\$ 1,072,650	\$ 1,085,386
Non-SGF State Funds	-	23	23	23	3	3	3	16
Federal Funds	299,450	293,335	239,686	372,558	289,658	376,606	401,407	274,226
Total	\$ 1,345,083	\$ 1,404,765	\$ 1,340,725	\$ 1,496,404	\$ 1,333,397	\$ 1,472,022	\$ 1,474,060	\$ 1,359,629
FTE	23.00	23.00	23.00	23.00	23.00	23.00	23.00	23.00

Education

Consequences of Not Funding this Program

Increased discrimination and increased harassment. Loss of a training tool for employers, individuals, stakeholders, and other groups who want to address discrimination and prevent discrimination.

	Statutory Basis	Mandatory v. Discretionary	MOE/Match Rqt.	Priority Level
Specific	K.S.A. 44-1004 (10)	Mandatory	No	2

Program Goals

- A.** Informs Kansans of what constitutes discrimination, the effects of unlawful discrimination, how to prevent discrimination, and provides an overview of discrimination laws. The public information program is the Commission’s proactive effort to prevent future acts of discrimination.
- B.** To maintain a statewide education program to inform all citizens on what constitutes discrimination, the effects of unlawful discrimination, how to prevent discrimination, and how to obtain redress.

Program History

See Program History under the Compliance Program.

Performance Measures

Outcome Measures	Goal	FY 2019 Actuals	FY 2020 Actuals	FY 2021 Actuals	FY 2022 Previous Est.	FY 2022 Actuals	FY 2023 Est.	FY 2024 Est.	3- yr. Avg.
1. Number of People Trained Through Educational Presentations	A, B	666	794	595	625	613	630	650	667
2. Number of People Completing KHRC Online Training	A, B	11,330	9,891	11,010	11,100	12,347	12,375	12,400	11,083
<i>Output Measures</i>									
3. Number of educational presentations	A, B	18	19	26	28	21	24	26	22
4. Provide online training	A, B	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Funding

Funding Source	FY 2019 Actuals	FY 2020 Actuals	FY 2021 Actuals	FY 2022 Approved	FY 2022 Actuals	FY 2023 Est.	FY 2024 Est.	3-yr. Avg.
State General Fund	\$ -	\$ -	\$ -	\$ 1,020	\$ -	\$ 1,067	\$ 1,618	\$ -
Non-SGF State Funds	7,287	8,900	900	2,849	-	3,889	22,927	3,267
Federal Funds	-	-	-	-	-	-	-	-
Total	\$ 7,287	\$ 8,900	\$ 900	\$ 3,869	\$ -	\$ 4,956	\$ 24,545	\$ 3,267
FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0