



## Division of Human Rights

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Governor

TO: Karen Persichilli Keogh, Secretary to the Governor  
Elizabeth Fine, Counsel to the Governor

FROM: NYS Division of Human Rights

DATE: October 20, 2021

SUBJECT: Government Transparency Initiative

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The mission of the NYS Division of Human Rights is to enforce the Human Rights Law, which affords every citizen “an equal opportunity to enjoy a full and productive life.” This Law prohibits discrimination in employment, housing, places of public accommodations, non-sectarian educational institutions, and credit, based on age, race, lawful source of income, national origin, gender identity, sex, sexual orientation, marital status, disability, military status, and other specified traits and characteristics.

Engagement with the public and transparency into the process of investigation, prosecution, and resolution of DHR complaints is an agency priority. To that end, DHR will endeavor to make the following changes to increase public engagement and improve the user experience of those seeking to access information or intervention from our agency in addition to increasing awareness and understanding of our agency, thereby furthering the goals of transparency in government.

I. **Expand Data on Agency Website and Use OpenDataNY to Make Agency Documents Searchable**

The NYS Division of Human Rights (DHR) is an adjudicatory agency and our final agency determinations are a matter of public record. To date, all requests for information pertaining to Final Commissioner’s Orders are directed to our website where these are uploaded periodically. Requests for other data and information are handled via FOIL request.

While the current system of processing information requests has not created any major issues, it is not optimal. Due to the technological limitations of our website service, the presentation of our Final Orders can look basic, and given that there are no search, filter, or sort options available, it is cumbersome to navigate. Moreover, where there are FOIL requests for aggregate data, such requests are handled on a case-by-case basis and require the input and work hours of various staff members from different departments. Each FOIL request requires staff to commence a new collection effort for the data. In addition to the above inefficiencies on the agency side, some stakeholders have expressed

the desire for a quicker and more straight forward way to obtain DHR data because the FOIL process can take some time.

In the spirit of transparency, productivity, and of the desire to serve stakeholders with useful and actionable information, we propose that DHR transitions to utilize the state's OpenDataNY program for certain data sets and frequently FOIL-ed information. The OpenDataNY interface has data visualization tools that would make this information more accessible to members of the public. DHR would link to the OpenDataNY portal from its website.

**There are three main pieces of data that we propose to provide**

- 1) Final Commissioner's Orders After Hearing and Court Orders**
- 2) Complaint Data (dataset format)**
- 3) Settlements**

**We would accomplish this by submitting a submission packet for each dataset in accordance with the guidelines provided in the program's Dataset Submission Guide. Each packet will include the following components:**

- **Data File**
- **Metadata Form**
- **Data Dictionary Document**
- **Overview Document**
- **Approval Form**
- **Any additional documentation**

**II. Posting Frequently FOIL-ed Documents and Information to the Website**

There are a small amount of documents that DHR receives frequent FOILs from the public about. To save time and increase transparency, DHR proposes to post them for public view on our website:

- a.** FHIP Plans and Data: Fair housing organizations and other non-profits that receive funding through the Fair Housing Initiatives Program (FHIP) assist people who believe they have been victims of housing discrimination. DHR often receives requests from these organizations for the data needed to apply for this federal funding to address housing discrimination claims regionally across the state.
- b.** Federal Equal Employment Opportunity Commission (EEOC) and Housing and Urban Development (HUD) contracts: Our agency contracts with the EEOC and with HUD to investigate and process complaints filed with each agency. DHR is reimbursed per case closed.

**III. Creating an Infographic that Details the "Life of a DHR Claim"**

- a.** The Division enforces the Human Rights Law and has contracts to investigate and resolve EEOC and HUD complaints. This can make for a very confusing process for claimants and litigants as dual track cases prosecuted by both DHR and the EEOC/HUD are common. In an effort to provide maximum transparency into all of the different paths a DHR claim can take, DHR proposes to create an interactive flow chart that will allow a user to click through the different stages and processes a DHR complaint may go through. This will enable the public to understand our process in a more user-friendly

way and cut down on confusion and calls to the agency from parties just looking to understand “what’s next” in their case. We will accomplish this by amending the website to add the interactive info-graphic.

**IV. Eliminate Private Settlements**

- a. Settlements play a critical role at the Division of Human Rights (DHR). In Fiscal Year 2020, over three-quarters of DHR complaints that were investigated and determined to have probable cause were ultimately resolved in settlements. Nearly half of these settlements were privately negotiated between the individual who alleged discrimination and the entity against whom the complaint was filed. The terms in such settlements are not disclosed by the parties to either DHR or the public. In the past two fiscal years, DHR has achieved settlements or ordered monetary damages totaling nearly \$9 million for complainants. This figure, however, does not include private settlements as those terms are unknown. Eliminating private settlements will allow DHR, and all New Yorkers, to have visibility into the terms of all settlements so as to have a more complete understanding of the impact of DHR’s enforcement of the Human Rights Law as well as the monetary compensation the agency’s process affords to victims of discrimination.
- b. On October 1, 2021, the agency notified the public that it was eliminating private settlements by issuing an advisement via its public webpage and sending an email blast on its third-party distribution list of advocate groups and other interested parties notifying that for cases filed on or after October 12, 2021, the Commissioner will no longer be signing Discontinuances dismissing cases for private settlements. Following a probable cause determination by the agency, all parties are now required to disclose the terms of the settlement to the Commissioner in any application to dismiss their case.

**V. Uploading Full Files to the Case Management System (CMS)**

- a. DHR still uses physical files in some of our regional offices while other regional offices additionally scan the full file into CMS. The contents of a file include the complaint, all attendant evidence and witness statements. When a case is being investigated and after it moves on to settlement or hearing, there can be significant delay in getting all documents to necessary parties. In order to reduce the need for copying and reduce costs to the public, we propose to begin scanning all documents associated with a DHR claim into our case management system in addition to having a physical file. As a complaint proceeds, the parties will often make records requests seeking a copy of the DHR case file. Allowing full files to be sent to parties via email will save time and cost to both the agency and litigants – improving the efficiency of our records access office. Having a full file in CMS will also enable DHR to move cases through the process quicker by eliminating the time spent on waiting for documents to be mailed.

**VI. Online Complaint Form Submission**

- a. Currently, the Division does not have the ability to accept a discrimination complaint electronically via our website. Individuals wishing to file a complaint must print out the form, fill it out by hand, and email or post it back to the agency. Similarly, a person can visit a DHR office or call our helpline to receive assistance in filing a complaint. In order to streamline the complaint process and increase accessibility, the Division will use technology to allow for online complaint form submission with optional demographic

data collection. This would also potentially create a way to batch import data into CMS and alleviate clerical errors and capacity concerns in entering complaints. Adding this electronic submission option will modernize the complaint process and eliminate potential barriers to filing.

**VII. Case Processing Changes to Improve Data**

- a. The Division is responsible for investigating allegations of housing and source of income discrimination. However, it does not currently track the type of source of income that is being discriminated against. With the wide variety of housing programs that are currently operating in the state of New York it is important to understand if there are trends in SOI discrimination based on the program. To achieve this data point, DHR will implement case processing changes that will include tracking the type of source of income in housing discrimination cases: i.e., ERAP, Section 8, etc.

**VIII. Website Overhaul**

- a. The Division's website is outdated and difficult for the public to navigate. The Division's successful investigations and settlements are not easily ascertainable and there is room for improvement in sharing upcoming events and other items of interest to the public. To increase public engagement via a user-friendly website, the Division will overhaul its website to highlight the existence of the tip line and inbox, language accessibility at all stages of the process, and will make the law and regulation tabs more plain language and accessible.
- b. The Division will create a calendar of events that include state and local civil rights events of interest to provide a wider range of opportunities for the public to engage with the various civil rights agencies and organizations in the state.
- c. In addition to allowing DHR settlements to be searchable through OpenDataNY, the Division will spotlight settlements that are high profile and deserve more public attention on the website and through various communication methods. This will allow more understanding by the public into the impact of DHR investigations and will also discourage bad actors through negative PR.