

ARKANSAS FAIR HOUSING COMMISSION

Enabling Laws

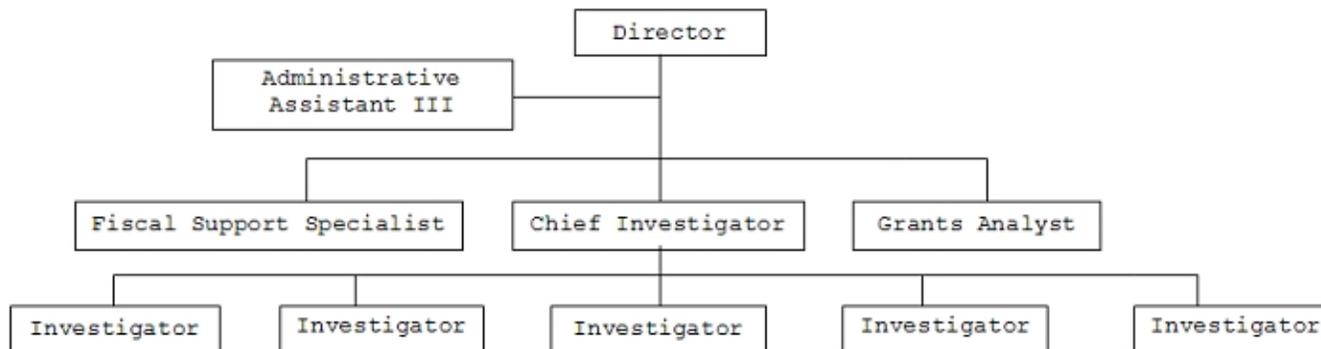
Act 114 of 2010
A.C.A. §16-123-301 et seq.

History and Organization

The Arkansas Legislature created the Arkansas Fair Housing Commission by Act 1785 of 2001. The Commission acts as a quasi-judicial, regulatory agency that enforces state and federal fair housing and fair lending laws with the authority to hold administrative hearings and litigate cases where discriminatory conduct is found to have occurred.

The mission of the Commission is to receive, investigate, conciliate and/or resolve complaints alleging violations of the Arkansas Fair Housing Act, which prohibits housing discrimination on the basis of race, religion, color, sex, national origin, familial status or disability; to cooperate with and provide technical and other assistance to federal, state, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices; and to establish an education and outreach program to prevent discriminatory housing practices.

The Commission is composed of thirteen members: seven (7) are appointed by the Governor; three (3) are appointed by the President Pro Tempore of the Senate; and three (3) are appointed by the Speaker of the House. Six (6) of the appointees are industry representatives and seven represent various consumer interests. The Governor shall appoint a Commissioner from each of the state's four (4) Congressional Districts.



Agency Commentary

The Arkansas Fair Housing Commission was created in 2001 (codified at Ark. Code Ann. § 16-123-201 et seq.) for the purpose of:

- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act, which prohibits unfair housing practices in lending, appraisal, sale, rental and occupancy based on seven (7) identified prohibited bases: race, color, religion, sex, national origin, familial status and disability;
- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act relating to the design and construction of accessible housing for the disabled and housing for the elderly;
- Assisting other entities (both public and private) in the formulation and operation of programs that prevent or eliminate unfair housing practices; and
- Providing for an education and outreach program to prevent unfair housing practices.

This quasi-judicial agency is empowered with fair housing and fair lending regulatory and enforcement duties specifically relating to the responsibilities of private and public housing providers throughout the State of Arkansas. Additionally, the Agency is responsible for the administrative and judicial adjudication of complaints through either administrative or judicial hearings.

The Agency seeks an increase in federal appropriation in the amount of \$139,952 to support operation of Agency programs as required by state and federal statutes. The Agency is requesting the following new position to accomplish its goals and objectives: Administrative Analyst.

Fund Center: 1NH (State Operations)

The Agency requests Base Level appropriation and general revenue - increases are supported by federal fund balance and additional supporting federal revenue.

The Agency requests Change Levels as follows:

00-Regular Salaries:

Increase in appropriation in the amount of \$93,608 each year for an additional position of Administrative Analyst and to fund new classifications of Agency Director, Chief Investigator, Investigator, Fiscal Support Analyst, and Administrative Specialist III positions. Reclassifications are necessary to promote statewide equity in classification and compensation. These positions are necessary to ensure that the agency carries forth the legislative declaration that, "the right to seek housing underlies the general public's ability to secure health, safety and welfare." Ark. Code Ann. § 16-123-301.

The Arkansas Fair Housing Commission was established to support that legislative dictate to resolve fair housing issues and enforce the fair housing laws within the state. The passage of the Arkansas Fair Housing Act gained the State of Arkansas recognition as being a "substantially equivalent" agency, meaning that the state law provided substantially the same protections as the federal law - thereby granting Arkansas the avenue to enforce our own fair housing law within our borders without federal intervention.

As part of the "substantially equivalent" process, the Agency completed a three-year "capacity-building" phase during which time the Agency partnered with the U.S. Department of Housing and Urban Development via a cooperative agreement to receive, investigate and conciliate fair housing complaints within Arkansas. During this mandatory three-year "capacity-building" period, the Commission investigated a portion of the state's fair housing complaint caseload with HUD investigating the bulk of the fair housing complaints and providing technical assistance in support of our limited enforcement efforts.

The Commission has "graduated" to a "contributions agency" status with the responsibility of processing 100% of all fair housing violations within the state. In FY2010, this Agency received nearly 250 fair housing complaints for alleged infractions occurring within the state's borders and was responsible for resolving all of those complaints. Additionally, the Agency is responsible for providing technical assistance, education and outreach to housing providers and the general public, attorneys and other public and private entities.

One additional position an Administrative Analyst is necessary to assist in the preparation of cases for trial or hearing. The Administrative Analyst is responsible for performing legal research from statutes, recorded judicial decisions, legal articles, treatises, codes and constitutions; preparing and providing documentation to assist in the preparation of investigations; establishing and maintaining legal reference files; and coordinating legal support activities. This position will provide necessary legal analysis and assistance during the investigative and hearing processes. The Agency currently has only one administrative support position.

Lastly, the Agency requests reclassifications of its positions of Agency Director, Chief Investigator, five Investigators, Fiscal Support Analyst and Administrative Specialist III positions to reflect comparable classifications with similarly situated agencies and current market rates.

03-Personal Services Matching:

Increase in appropriation in the amount of \$26,344 each year for Personal Services Matching for increases associated with the reclassification of current positions and for the position of Administrative Analyst.

02-Operating Expenses:

Increase in appropriation in the amount of \$20,000 each year to support legal and case processing fees (to include the copying of files for hearings and trials and the copying of files for responses to discovery requests by legal counsel during the investigative and adjudicative processes); court reporting fees for administrative case processing; additional travel associated with case processing; and office supplies necessary to support the Administrative Analyst position (such as a computer, a desk/chair, additional telephone line, general office supplies and mileage allowance for necessary travel).

Fund Center: 53L (Arkansas Fair Housing Commission Trust Fund)

The Agency's Change Level Requests are as follows:

02 - Operating Expenses:

The Agency requests an appropriation increase of \$10,000 in fiscal year 2012 and \$20,000 in fiscal year 2013 to satisfy statutory mandates for the Commission's Education Trust Fund. The growth of the Agency is imminent due to the increase in investigative caseloads and the number of administrative hearings before the Commission. Anticipated increases in revenue are expected to fund this growth. The Commission Trust Fund was established in 2001 (Ark. Code Ann. §16-123-347) for the purpose of receiving any administrative fees, civil penalties or conciliated amounts levied and collected to be solely used for fair housing education of the public and the operational expenses of the Commission. Funding is based on receipts of administrative fees, fines and civil penalties and conciliated amounts as provided for and codified at Ark. Code Ann. §16-123-321,32. The appropriation is necessary to utilize administrative and civil penalties and fees levied and collected pursuant to the Arkansas Fair Housing Act to provide fair housing education of the public and for operational expenses of the Commission as mandated by the Legislature.

The Commission anticipates the establishment of a state-wide fair housing media campaign to include: public service announcements (audio and video); television, radio and print advertisements; posters; pamphlets and brochures. The Commission also will work with public and private service organizations and agencies to broaden and enhance its state-wide media campaign and to establish educational training programs for industry personnel and the public at large. As required by law, this training and education will be disseminated in compliance with the adaptability and accessibility guidelines. It will include expenditures in advertising, conferences and seminars and educational and promotions materials.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS FAIR HOUSING COMMISSION
FOR THE YEAR ENDED JUNE 30, 2007

Findings

The Agency failed to deposit cash receipts in a timely manner. We noted instances in which receipts were held for as long as eight months before being deposited. Also, the Agency did not utilize a formalized receipting method, such as a receipt book or mail log, to ensure that all receipts were properly accounted for as recommended by the State's Financial Management Guide.

Recommendations

The Agency establish strong controls over cash receipts to ensure that collections are recorded and deposited in a timely manner.

Employment Summary

	Male	Female	Total	%
White Employees	2	0	2	33 %
Black Employees	1	3	4	67 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			4	67 %
Total Employees			6	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
None	N/A	N	N	0	N/A

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2009-2010		2010-2011		2010-2011		2011-2012						2012-2013					
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
1NH State Operations	449,527	9	709,415	10	712,008	10	688,788	10	828,740	11	695,810	10	688,788	10	828,740	11	695,810	10
53L Education-Trust	1,451	0	40,000	0	40,000	0	40,000	0	50,000	0	40,000	0	40,000	0	60,000	0	40,000	0
Total	450,978	9	749,415	10	752,008	10	728,788	10	878,740	11	735,810	10	728,788	10	888,740	11	735,810	10

Funding Sources		%		%		%		%		%		%		%		%	
Fund Balance	4000005	473,616	40.5	718,108	52.7	612,091	46.9	612,091	46.9	612,091	46.9	576,701	45.4	426,749	38.1	569,679	45.1
General Revenue	4000010	254,000	21.7	283,398	20.8	283,398	21.7	283,398	21.7	283,398	21.7	283,398	22.3	283,398	25.3	283,398	22.4
Federal Revenue	4000020	380,473	32.5	300,000	22.0	350,000	26.8	350,000	26.8	350,000	26.8	350,000	27.6	350,000	31.2	350,000	27.7
Trust Fund	4000050	60,997	5.2	60,000	4.4	60,000	4.6	60,000	4.6	60,000	4.6	60,000	4.7	60,000	5.4	60,000	4.8
Total Funds		1,169,086	100.0	1,361,506	100.0	1,305,489	100.0	1,305,489	100.0	1,305,489	100.0	1,270,099	100.0	1,120,147	100.0	1,263,077	100.0
Excess Appropriation/(Funding)		(718,108)		(612,091)		(576,701)		(426,749)		(569,679)		(541,311)		(231,407)		(527,267)	
Grand Total		450,978		749,415		728,788		878,740		735,810		728,788		888,740		735,810	

Agency Position Usage Report

FY2008 - 2009						FY2009 - 2010						FY2010 - 2011					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
7	5	2	7	0	28.57 %	10	7	3	10	0	30.00 %	10	8	2	10	0	20.00 %

Analysis of Budget Request

Appropriation: 1NH - State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Fair Housing Commission (AFHC) was created by Act 1785 of 2001 to investigate housing discrimination complaints and punish violators, in cooperation with the State Attorney General. Funding for the AFHC is derived from federal reimbursements by Fair Housing Assistance Program Funds and general revenue.

The Commission has been recently upgraded to the level of a "contributions agency" by the Department of Housing & Urban Development, making them responsible for processing 100% of all fair housing violations within the State of Arkansas.

Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Career Service Payments. The Base Level request for Regular Salaries includes board member stipend payments.

The Commission's Change Level Request of \$139,952 each year provides only for appropriation increases for federal revenues due to the Commission's increased investigation responsibilities. The total request is comprised of the following:

- Regular Salaries of \$29,251 for one (1) additional Administrative Analyst (C115) position to assist with legal research in preparation for hearings and trials.
- Regular Salaries of \$64,357 for position upgrades/reclassifications for parity with other agencies/institutions for similar positions and due to the increased responsibilities of the Commission to conduct their own investigations for the following positions: one (1) Agency Director (C128 to N908, \$21,128); one (1) Chief Investigator (C117 to C120, \$5,083); five (5) AFHC Investigators (C115 to C119, \$31,515/\$6,303 each); one (1) Fiscal Support Analyst to Fiscal Support Officer (C115 to C119, \$4,203); and one (1) Administrative Specialist III to Administrative Analyst (C112 to C115, \$2,428).
- Personal Services Matching of \$26,344 for the new Administrative Analyst position (\$11,450) and position reclassification/upgrade requests (\$14,894).
- Operating Expenses of \$20,000 each year for mileage, telecommunications, computers & office supplies, and investigation expenses due to increased responsibility for investigations.

The Executive Recommendation provides for Base Level, with an upgrade for one (1) Agency Director (C128 to N902, \$3,931) and a reclassification for one (1) Fiscal Support Analyst (A091C/C115) to Fiscal Support Supervisor (A074C/C118, \$3,091).

Appropriation Summary

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item	Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
	2009-2010 Actual	2010-2011 Budget	2010-2011 Authorized	2011-2012			2012-2013		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	214,238	346,663	349,229	346,063	439,671	351,765	346,063	439,671	351,765
#Positions	9	10	10	10	11	10	10	11	10
Extra Help 5010001	5,951	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
#Extra Help	1	2	2	2	2	2	2	2	2
Personal Services Matching 5010003	93,190	129,206	129,233	129,179	155,523	130,499	129,179	155,523	130,499
Operating Expenses 5020002	108,505	138,647	134,647	138,647	158,647	138,647	138,647	158,647	138,647
Conference & Travel Expenses 5050009	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Professional Fees 5060010	6,744	14,000	18,000	14,000	14,000	14,000	14,000	14,000	14,000
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	0	20,000	20,000	0	0	0	0	0	0
Public Education 5900046	899	899	899	899	899	899	899	899	899
Total	449,527	709,415	712,008	688,788	828,740	695,810	688,788	828,740	695,810
Funding Sources									
Fund Balance 4000005	468,616	653,562		527,545	527,545	527,545	472,155	332,203	465,133
General Revenue 4000010	254,000	283,398		283,398	283,398	283,398	283,398	283,398	283,398
Federal Revenue 4000020	380,473	300,000		350,000	350,000	350,000	350,000	350,000	350,000
Total Funding	1,103,089	1,236,960		1,160,943	1,160,943	1,160,943	1,105,553	965,601	1,098,531
Excess Appropriation/(Funding)	(653,562)	(527,545)		(472,155)	(332,203)	(465,133)	(416,765)	(136,861)	(402,721)
Grand Total	449,527	709,415		688,788	828,740	695,810	688,788	828,740	695,810

Budget exceeds Authorized Appropriation in Operating Expenses by authority of a Budget Classification Transfer.

Change Level by Appropriation

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	688,788	10	688,788	100.0	688,788	10	688,788	100.0
C01	Existing Program	60,701	1	749,489	108.8	60,701	1	749,489	108.8
C10	Reclass	8,165	0	757,654	110.0	8,165	0	757,654	110.0
C11	Upgrade/Downgrade	71,086	0	828,740	120.3	71,086	0	828,740	120.3

Executive Recommendation

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	688,788	10	688,788	100.0	688,788	10	688,788	100.0
C01	Existing Program	0	0	688,788	100.0	0	0	688,788	100.0
C10	Reclass	3,091	0	691,879	100.4	3,091	0	691,879	100.4
C11	Upgrade/Downgrade	3,931	0	695,810	101.0	3,931	0	695,810	101.0

Justification

C01	We request Regular Salaries and associated Personal Services Matching for one (1) additional Administrative Analyst (C115) to assist with legal research in preparation for hearings and trials and \$20,000 each year in Operating Expenses for costs associated with additional investigation expenses for fair housing violations.
C10	We also request to reclassify an Administrative Specialist III to a Administrative Analyst and a Fiscal Support Analyst to a AFHC Fiscal Support Officer to better align these positions with the work being performed. The Administrative Specialist III performs legal research from statutes, judicial decisions, codes and constitutions, assists investigators and coordinates legal support activities. The Fiscal Support Analyst develops operating program policies, oversees all grant programs, supervises a Grants Analyst (C117), negotiates contracts and maintains the general ledger, provides monthly financial reports, tracks federal funds for payments, provides assistance to customers and acts as back up to Director.
C11	This request is to upgrade the following positions to reflect comparable market rates and due to demands of increased investigations: Agency Director, Chief Investigator, and five (5) Investigators.

Analysis of Budget Request

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

The Education - Trust Program was established by Act 1201 of 2007 and provides for fair housing education of the public and the operational expenses of the Commission, as set out in A.C.A. §§16-123-301 through 16-123-348. Funding is derived from administrative or civil penalties levied and collected pursuant to §16-123-301.

The Commission's Change Level request of \$10,000 for FY2012 and \$20,000 for FY2013 in Operating Expenses would provide for additional educational outreach and help the Commission establish a statewide fair housing media campaign to provide information and training to the public at large.

The Executive Recommendation provides for Base Level.

Appropriation Summary

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2009-2010 Actual	2010-2011 Budget	2010-2011 Authorized	2011-2012			2012-2013		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	1,451	40,000	40,000	40,000	50,000	40,000	40,000	60,000	40,000
Conference & Travel Expenses	5050009	0	0	0	0	0	0	0	0	0
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		1,451	40,000	40,000	40,000	50,000	40,000	40,000	60,000	40,000
Funding Sources										
Fund Balance	4000005	5,000	64,546		84,546	84,546	84,546	104,546	94,546	104,546
Trust Fund	4000050	60,997	60,000		60,000	60,000	60,000	60,000	60,000	60,000
Total Funding		65,997	124,546		144,546	144,546	144,546	164,546	154,546	164,546
Excess Appropriation/(Funding)		(64,546)	(84,546)		(104,546)	(94,546)	(104,546)	(124,546)	(94,546)	(124,546)
Grand Total		1,451	40,000		40,000	50,000	40,000	40,000	60,000	40,000

Change Level by Appropriation

Appropriation: 53L - Education-Trust
Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Agency Request

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	40,000	0	40,000	100.0	40,000	0	40,000	100.0
C01	Existing Program	10,000	0	50,000	125.0	20,000	0	60,000	150.0

Executive Recommendation

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	40,000	0	40,000	100.0	40,000	0	40,000	100.0
C01	Existing Program	0	0	40,000	100.0	0	0	40,000	100.0

Justification

C01	We request \$10,000 in FY2012 and \$20,000 in FY2013 for additional Operating Expense appropriation to support existing revenues in order that the Commission may engage in additional public outreach and establish a statewide fair housing media campaign to better inform the public.
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