

ARKANSAS FAIR HOUSING COMMISSION

Enabling Laws

Act 1222 of 2007
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 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 are appointed by the Governor, three by the President Pro Tempore of the Senate and three by the Speaker of the House. Six of the appointees are industry representatives and seven are consumers. Each Congressional District must be represented by a Commissioner.



Agency Commentary

The Arkansas Fair Housing Commission was created in 2001 for the purpose of:

- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act, which prohibits discriminatory 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.
- Assisting other entities (both public and private) in the formulation and operation of programs that prevent or eliminate discriminatory housing practices
- Providing for an education and outreach program to prevent discriminatory housing practices.

The Commission receives funding for appropriation from state general revenue, federal Fair Housing Assistance Program (FHAP) Funds, and trust funds consisting of administrative or civil penalties levied

and collected pursuant to A.C.A. §16-123-301 et seq.

In addition to Base Level, the Commission seeks an increase in appropriation in the amount of \$167,478 with general revenue funding of \$93,405 in FY2010 and appropriation in the amount of \$169,819 with general revenue funding of \$94,929 in FY2011 to support operation of Commission programs as required by state and federal statutes. The Commission is requesting the following new positions to accomplish its goals and objectives: two (2) Investigators; one (1) Fiscal Support Specialist; and one (1) Extra Help position.

Appropriation: 1NH (State Operations)

Increase in appropriation of \$83,770 with \$54,519 in general revenue funding in FY2010 and \$85,695 with \$55,772 in general revenue funding in FY2011 for Regular Salaries with related Personal Services Matching for two (2) new Investigator positions; one (1) new Fiscal Support Special position; and one (1) Extra Help position. These positions are necessary to ensure that the Commission carries forth the legislative declaration that, "the right to seek housing underlies the general public's ability to secure health, safety and welfare." A.C.A. §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 Commission has recently completed a three-year "capacity-building" phase during which time the Commission 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 FY2008, this Agency received nearly 200 fair housing complaints for alleged infractions occurring within the State's borders and was responsible for resolving all of those complaints.

Two new investigators are necessary to handle the increased caseload. Additionally, the Commission requires one new Fiscal Support Specialist to assist in managing the daily agency fiscal operations and one new Extra Help position to assist as needed.

The Commission is requesting an increase in Operating Expenses appropriation of \$24,511 with general revenue funding of \$14,700 in each year of the biennium for office supplies necessary to support the two new investigator and one new fiscal support specialist positions (such as a computer, a desk/chair, additional telephone lines, general office supplies and mileage allowance for investigative travel). Additionally, this request is necessary to accommodate an increase in investigative travel overall due to the additional case processing mandated by HUD, to pay for increased postage for legal notice requirements and hearings. Accordingly, this appropriation will aid in our fulfillment of the cooperative agreement with HUD to furnish all necessary personnel, materials, services, equipment, facilities and otherwise do all things necessary for or incidental to the performance our agreement.

Also, the Commission is requesting an increase in Professional Fees appropriation in the amount of \$3,600 with general revenue funding of \$2,160 in each year of the biennium to support legal and court reporting fees for administrative case processing.

Appropriation: 56D (Arkansas Fair Housing Commission Trust Fund)

The Commission requests trust fund appropriation in the amount of \$35,000 in FY2010 (of which \$10,000 is being requested as unfunded appropriation) and \$40,000 in FY2011 (of which \$15,000 is being requested as unfunded appropriation) to satisfy statutory mandates for the Commission's Education Trust Fund. The growth of the Commission is imminent due to the increase in investigative caseloads and the number of administrative hearings before the Commission. This request is justified due to the current and anticipated increase in revenue associated with this growth. The Arkansas Fair Housing Commission Trust Fund was established in 2001 (A.C.A. §19-5-1135) 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. 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 promotional materials. Additionally, the Agency requests a transfer of funding from its Cash in Treasury Fund to this Trust Fund as per A.C.A. §19-5-1135 which sets forth the basis for the Arkansas Fair Housing Commission Trust Fund.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
 AUDIT OF :
 ARKANSAS FAIR HOUSING COMMISSION
 FOR THE YEAR ENDED JUNE 30, 2005

Findings	Recommendations
None	None

Employment Summary

	Male	Female	Total	%
White Employees	1	1	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	2007-2008		2008-2009		2008-2009		2009-2010					2010-2011						
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
1NH State Operations	332,225	7	431,933	7	439,798	7	452,415	7	619,893	10	452,415	7	456,470	7	626,289	10	456,470	7
56D Education - Trust*	2,019	0	25,000	0	0	0	0	0	35,000	0	35,000	0	0	0	40,000	0	40,000	0
Total	334,244	7	456,933	7	439,798	7	452,415	7	654,893	10	487,415	7	456,470	7	666,289	10	496,470	7

Funding Sources		%		%		%		%		%		%		%		%			
Fund Balance	4000005	161,103	28.1	239,466	34.9			228,903	38.7	228,903	29.2	228,903	29.2	139,445	27.7	129,445	18.8	296,923	34.7
General Revenue	4000010	266,034	46.4	270,370	39.4			281,030	47.5	374,435	47.7	374,435	47.7	283,398	56.2	378,327	54.9	378,327	44.2
Federal Revenue	4000020	126,141	22.0	156,000	22.7			81,927	13.8	156,000	19.9	156,000	19.9	81,110	16.1	156,000	22.6	156,000	18.2
Cash Fund	4000045	20,432	3.6	20,000	2.9			0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Trust Fund	4000050	0	0.0	0	0.0			0	0.0	25,000	3.2	25,000	3.2	0	0.0	25,000	3.6	25,000	2.9
Total Funds		573,710	100.0	685,836	100.0			591,860	100.0	784,338	100.0	784,338	100.0	503,953	100.0	688,772	100.0	856,250	100.0
Excess Appropriation/(Funding)		(239,466)		(228,903)				(139,445)		(129,445)		(296,923)		(47,483)		(22,483)		(359,780)	
Grand Total		334,244		456,933				452,415		654,893		487,415		456,470		666,289		496,470	

* Change in Appropriation due to establishment of Arkansas Fair Housing Trust Fund per A.C.A. 19-5-1135 from previous Cash in Treasury Fund. Formerly "Education - Cash."

Actual and Budget amounts in Appropriation 56D Education - Trust exceeds Authorized due to a transfer from the Cash Fund Holding Account.

Agency Position Usage Report

FY2006 - 2007						FY2007 - 2008						FY2008 - 2009					
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	
4	3	1	4	0	25.00 %	7	6	1	7	0	14.29 %	7	6	1	7	0	14.29 %

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.

Base Level salaries for classified positions reflect the recommendations of the Pay Plan Study as well as the Fair Housing Director changing from an unclassified to classified position; salaries for both were adjusted accordingly. A 2.3% Cost of Living Allowance is reflected in the second year of the biennium. The Base Level request for Regular Salaries may include board member Stipend payments and Career Service payments for eligible employees. Personal Services Matching includes a \$75 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$425.

The Commission's Base Level request is \$452,415 in FY2010 with general revenue funding in the amount of \$281,030 and four (4) positions, and \$456,470 in FY2011 with general revenue funding in the amount of \$283,398 and three (3) positions.

The Commission's total Change Level Request includes additional appropriation of \$167,478 with general revenue funding in the amount of \$93,405 in FY2010 and additional appropriation of \$169,819 with general revenue funding in the amount of \$94,929 in FY2011. The request includes three (3) Regular positions and one (1) Extra Help position. The total request is comprised of the following:

An increase in appropriation of \$83,770 of which \$54,519 is made up of general revenue in Regular Salaries with related Personal Services Matching in FY2010 and an increase of appropriation of \$85,695 of which \$55,772 is made up of general revenue in Regular Salaries with related Personal Services Matching in FY2011. This request is for two (2) AFHC Investigator positions to resolve fair housing issues and enforce the fair housing laws within the State. Previously, the Fair Housing Commission partnered with the US Department of Housing and Urban Development (HUD) to receive, investigate and conciliate fair housing complaints within Arkansas. However, as part of the Agency's cooperative agreement with HUD, the AFHC took over the processing of all of the State's fair housing complaints, including those previously performed by HUD. Also requested is one (1) Fiscal Support Specialist to assist in managing the daily fiscal operations of the Commission, including maintaining records of financial transactions and preparing reports on the Commission's fiscal status.

One (1) Extra Help position with appropriation of \$20,000 each year of the biennium and related Personal Services Matching is requested to assist in the day to day activities of the Commission.

An increase of \$24,500 in appropriation and general revenue funding of \$14,700 in each year of the biennium in Operating Expenses for the following:

- Increase of \$4,000 in appropriation and general revenue funding of \$2,400 each year of the biennium for increased postage expenses.
- Increase of \$4,000 in appropriation and general revenue funding of \$2,400 each year of the biennium for mileage expenses related to increased investigations and administrative hearings.

- Increase of \$5,000 in appropriation and general revenue funding of \$3,000 each year of the biennium for Board member travel due to increased hearings.
- Increase of \$500 in appropriation and general revenue funding of \$300 each year for vehicle insurance.
- Increase of \$1,000 in appropriation and general revenue funding of \$600 each year of the biennium for fuel purchases related to increased investigations.
- Increase of \$500 in appropriation and general revenue funding of \$300 each year of the biennium for office supplies including office furniture
- Increase of \$1,500 in appropriation and general revenue funding of \$900 each year of the biennium for reference materials related to updated laws and mandates.
- Increase of \$8,000 in appropriation and general revenue funding of \$4,800 each year of the biennium for new and upgraded desktop computers for the office and laptop computers related to investigations.

Finally, additional appropriation of \$3,600 with general revenue funding of \$2,160 in Professional Fees for legal fees is requested related to court reporters due to the increase in administrative hearings and case processing.

The Executive Recommendation provides for Base Level.

Appropriation Summary

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

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2007-2008 Actual	2008-2009 Budget	2008-2009 Authorized	2009-2010			2010-2011		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	160,579	239,002	242,716	250,601	334,371	250,601	253,933	339,628	253,933
#Positions	7	7	7	7	10	7	7	10	7
Extra Help 5010001	0	0	0	0	20,000	0	0	20,000	0
#Extra Help	0	0	0	0	1	0	0	1	0
Personal Services Matching 5010003	64,548	79,385	83,183	88,268	123,876	88,268	88,991	125,015	88,991
Operating Expenses 5020002	72,997	74,647	75,000	74,647	99,147	74,647	74,647	99,147	74,647
Conference & Travel Expenses 5050009	11,636	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Professional Fees 5060010	5,991	18,000	18,000	18,000	21,600	18,000	18,000	21,600	18,000
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	15,575	0	0	0	0	0	0	0	0
Public Education 5900046	899	899	899	899	899	899	899	899	899
Total	332,225	431,933	439,798	452,415	619,893	452,415	456,470	626,289	456,470
Funding Sources									
Fund Balance 4000005	156,103	216,053		210,490	210,490	210,490	121,032	121,032	288,510
General Revenue 4000010	266,034	270,370		281,030	374,435	374,435	283,398	378,327	378,327
Federal Revenue 4000020	126,141	156,000		81,927	156,000	156,000	81,110	156,000	156,000
Total Funding	548,278	642,423		573,447	740,925	740,925	485,540	655,359	822,837
Excess Appropriation/(Funding)	(216,053)	(210,490)		(121,032)	(121,032)	(288,510)	(29,070)	(29,070)	(366,367)
Grand Total	332,225	431,933		452,415	619,893	452,415	456,470	626,289	456,470

Fund Balance reflects federal fund reimbursements on closed case basis retained by Agency.

Change Level by Appropriation

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

Agency Request

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	452,415	7	452,415	100.0	456,470	7	456,470	100.0
C01	Existing Program	159,478	3	611,893	135.3	161,819	3	618,289	135.5
C08	Technology	8,000	0	619,893	137.0	8,000	0	626,289	137.2

Executive Recommendation

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	452,415	7	452,415	100.0	456,470	7	456,470	100.0
C01	Existing Program	0	0	452,415	100.0	0	0	456,470	100.0
C08	Technology	0	0	452,415	100.0	0	0	456,470	100.0

Justification

C01	The Agency's biennial Change Level requests include: Two (2) new Investigator positions and one (1) new Fiscal Support Specialist. The Regular Salaries request for these positions is \$83,770 in FY2010 with general revenue funding requested of \$54,519 and federal funds supporting the difference. The Regular Salaries request for these positions is \$85,695 in FY2011 with general revenue funding requested of \$55,772 and federal funds supporting the difference. Associated Personal Services Matching for these positions is \$35,608 in FY2010 with general revenue funding requested of \$22,026 and Federal funds supporting the difference. Associated Personal Services Matching for these positions is \$36,024 in FY2011 with general revenue funding requested of \$22,297 and Federal funds supporting the difference. The positions are needed to handle increased caseloads and assist in agency fiscal operations. One (1) new extra help position with \$20,000 in appropriation to assist the Agency as needed. This position will be supported by federal funds. Operating Expenses of \$24,500 each year with general revenue funding requested of \$14,700 to accommodate the need for office supplies, increased postage rates, additional mileage expenses for investigations and administrative hearings, reference materials and legal research, and increases in fuel expenses. Professional Fees of \$3,600 each year with general revenue funding requested of \$2,160 to cover increases in legal fees for court reporters for hearing purposes. The total general revenue funding requested in FY2010 is \$93,405 and in FY2011 is \$94,929.
C08	The Agency requests appropriation in the amount of \$8,000 and general revenue funding in the amount of \$4,800 each year of the biennium for additional computers including laptops for the Investigators, new desktop computers for additional employees and replacement desktop computers. This request is reflected in the Agency's approved IT Plan under IT Support Costs-Hardware.

Analysis of Budget Request

Appropriation: 56D - Education - Trust*

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

The Arkansas Fair Housing Commission Trust Fund was established in 2001, and is authorized by A.C.A. §19-5-1135 to consist of the following:

- Funds received by the Arkansas Fair Housing Commission, administrative or civil penalties levied and collected pursuant to §16-123-301 et seq., and any other moneys as may be provided by the General Assembly.
- The fund shall be used for fair housing education of the public and the operational expenses of the commission, as set out in §§ 16-123-301 - 16-123-348.

The Agency requests to change from a Cash in Treasury appropriation approved in FY2009 to an appropriation funded by the Arkansas Fair Housing Trust Fund per A.C.A. §19-5-1135. The Appropriation title was formerly "Education - Cash."

The Agency Change Level Request is to establish appropriation for Operating Expenses in the amount of \$35,000 in FY2010 of which \$10,000 is unfunded and \$40,000 in FY2011 of which \$15,000 is unfunded to enable the Agency to expense both the current and the anticipated increases in available funding. The Commission expects funding to increase due to the transfer of all fair housing case processing within the State of Arkansas from the U.S. Department of Housing and Urban Development (HUD) to the Arkansas Fair Housing Commission (AFHC). This appropriation will be utilized to supplement operational expenses of the Agency and to provide fair housing education to the public, including the establishment of a state-wide media campaign and training programs for industry personnel and the general public.

The Commission is requesting remaining fund balance to be transferred from Cash in Treasury to the Fair Housing Commission Trust Fund per A.C.A. §19-5-1135.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 56D - 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		
		2007-2008 Actual	2008-2009 Budget	2008-2009 Authorized	2009-2010			2010-2011		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	2,019	25,000	0	0	35,000	35,000	0	40,000	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		2,019	25,000	0	0	35,000	35,000	0	40,000	40,000
Funding Sources										
Fund Balance	4000005	5,000	23,413		18,413	18,413	18,413	18,413	8,413	8,413
Cash Fund	4000045	20,432	20,000		0	0	0	0	0	0
Trust Fund	4000050	0	0		0	25,000	25,000	0	25,000	25,000
Total Funding		25,432	43,413		18,413	43,413	43,413	18,413	33,413	33,413
Excess Appropriation/(Funding)		(23,413)	(18,413)		(18,413)	(8,413)	(8,413)	(18,413)	6,587	6,587
Grand Total		2,019	25,000		0	35,000	35,000	0	40,000	40,000

* Change in Appropriation due to establishment of Arkansas Fair Housing Trust Fund per A.C.A. 19-5-1135 from previous Cash in Treasury Fund. Formerly "Education - Cash."

FY08 Fund Balance reflected in amount of \$5,000 is current balance in the Fair Housing Trust Fund.

Budget exceeds Authorized Appropriation in Operating Expenses due to a transfer from the Cash Fund Holding Account.

Agency is requesting remaining fund balance to be transferred from Cash in Treasury Fund to the Fair Housing Trust Fund per A.C.A. 19-5-1135.

Change Level by Appropriation

Appropriation: 56D - Education - Trust*
Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Agency Request

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	0	0	0	0.0	0	0	0	0.0
C01	Existing Program	25,000	0	25,000	100.0	25,000	0	25,000	100.0
C05	Unfunded Appropriation	10,000	0	35,000	140.0	15,000	0	40,000	160.0

Executive Recommendation

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	0	0	0	0.0	0	0	0	0.0
C01	Existing Program	25,000	0	25,000	100.0	25,000	0	25,000	100.0
C05	Unfunded Appropriation	10,000	0	35,000	140.0	15,000	0	40,000	160.0

Justification

C01	The Agency is requesting appropriation of \$25,000 each year of the biennium to be used for fair housing education of the public and operational expenses of the Commission as mandated by Legislature per A.C.A. 19-5-1135.
C05	The Agency is requesting an increase in unfunded Appropriation only in the amounts of \$10,000 in FY2010 and \$15,000 in FY2011 to be used for fair housing education of the public and operational expenses of the Commission as mandated by the Legislature.